



RFP No: 3584

INVITATION: Sealed proposals, subject to the attached conditions, will be received at this office until February 20, 2009 @ **3:00 p.m.** Central Standard Time for the acquisition of the products/services described below for the Mississippi Wireless Communication Commission.

Build-to-suit radio tower construction services

MANDATORY VENDOR CONFERENCE: 2:00 p.m., Wednesday, January 28, 2009 at 412 E. Woodrow Wilson Ave. Jackson, MS 39216

The Vendor must submit proposals and direct inquiries to:

Melinda Simmons
Technology Consultant
Information Technology Services
Suite 508, 301 N. Lamar Street
Jackson, MS 39201-1495
(601) 359-9535
Melinda.Simmons@its.ms.gov

To prevent opening by unauthorized individuals, all copies of the proposal must be sealed in the package. The following must be clearly typed on a label affixed to the package in a clearly visible location:

PROPOSAL, SUBMITTED IN RESPONSE TO
RFP NO. 3584
due February 20, 2009 @ 3:00 p.m.,
ATTENTION: Melinda Simmons

David L. Litchliter
Executive Director, ITS

ITS RFP Response Checklist

RFP Response Checklist: These items should be included in your response to RFP 3584.

- _____ 1) One clearly marked original response and five (5) identical copies of the complete proposal. Label the front and spine of the three-ring loose-leaf binder with the Vendor name and RFP number. Include the items listed below inside the binder. Please DO NOT include a copy of the RFP in the binder.
- _____ 2) *Submission Cover Sheet*, signed and dated. (Section I)
- _____ 3) *Proposal Bond*, if applicable (Section I)
- _____ 4) *Proposal Exception Summary*, if applicable (Section V)
- _____ 5) Vendor response to *RFP Questionnaire* (Section VI)
- _____ 6) Point-by-point response to *Technical Specifications* (Section VII)
- _____ 7) Vendor response to *Cost Information Submission* (Section VIII)
- _____ 8) *References* (Section IX)

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SECTION I SUBMISSION COVER SHEET & CONFIGURATION SUMMARY

Provide the following information regarding the person responsible for the completion of your proposal. This person should also be the person the Mississippi Department of Information Technology Services, (ITS), should contact for questions and/or clarifications.

Name _____	Phone # _____
Address _____	Fax # _____
_____	E-mail _____

Subject to acceptance by **ITS**, the Vendor acknowledges that by submitting a proposal AND signing in the space indicated below, the Vendor is contractually obligated to comply with all items in this Request for Proposal (RFP), including the Standard Contract in Exhibit A if included herein, except those listed as exceptions on the Proposal Exception Summary Form. If no *Proposal Exception Summary Form* is included, the Vendor is indicating that he takes no exceptions. This acknowledgement also contractually obligates any and all subcontractors that may be proposed. Vendors who sign below may not later take exception to any point during contract negotiations. The Vendor further certifies that the company represented here is an authorized dealer in good standing of the products/services included in this proposal.

	_____/_____ Original signature of Officer in Bind of Company/Date
Name (typed or printed)	_____
Title	_____
Company name	_____
Physical address	_____

State of Incorporation	_____

CONFIGURATION SUMMARY

The Vendor must provide a summary of the main components of products/services offered in this proposal using 100 words or less.

PROPOSAL BONDS

Please refer to Item No. 36, "Proposal Bond" in Section IV to determine if a Proposal Bond is required for this procurement. If required, please attach the bond here.

SECTION II

PROPOSAL SUBMISSION REQUIREMENTS

The objective of the Proposal Submission Requirements section is to provide Vendors with the information required to submit a response to this Request for Proposal (RFP). A Vendor who has responded to previous RFPs issued by **ITS** should not assume that the requirements are the same, as changes may have been made.

1. Failure to follow any instruction within this RFP may, at the State's sole discretion, result in the disqualification of the Vendor's proposal.
2. The State has no obligation to locate or acknowledge any information in the Vendor's proposal that is not presented under the appropriate outline according to these instructions and in the proper location.
3. The Vendor's proposal must be received, in writing, by the office of **ITS** by the date and time specified. **ITS** is not responsible for any delays in delivery or expenses for the development or delivery of proposals. Any proposal received after proposal opening time will be returned unopened.
4. Proposals or alterations by fax, e-mail, or phone will not be accepted.
5. Original signatures are required on one copy of the Submission Cover Sheet and Configuration Summary, and the Vendor's original submission must be clearly identified as the original. The Vendor's original proposal must include the Proposal Bond, (if explicitly required in Section IV).
6. **ITS** reserves the right to reject any proposals, including those with exceptions, prior to and at any time during negotiations.
7. **ITS** reserves the right to waive any defect or irregularity in any proposal procedure.
8. The Vendor may intersperse their response following each RFP specification but must not otherwise alter or rekey any of the original text of this RFP. If the State determines that the Vendor has altered any language in the original RFP, the State may, in its sole discretion, disqualify the Vendor from further consideration. The RFP issued by **ITS** is the official version and will supersede any conflicting RFP language submitted by the Vendor.

The Vendor must conform to the following standards in the preparation of the Vendor's proposal:

- 8.1 The Vendor is required to submit one clearly marked original response and five (5) identical copies of the complete proposal, including all sections and exhibits, in three-ring binders.

- 8.2 To prevent opening by unauthorized individuals, all copies of the proposal must be sealed in the package. A label containing the information on the RFP cover page must be clearly typed and affixed to the package in a clearly visible location.
 - 8.3 Number each page of the proposal.
 - 8.4 Respond to the sections and exhibits in the same order as this RFP.
 - 8.5 Label and tab the responses to each section and exhibit, using the corresponding headings from the RFP.
 - 8.6 If the Vendor does not agree with any item in any section, then the Vendor must list the item on the *Proposal Exception Summary Form*. (See Section V for additional instructions regarding Vendor exceptions.)
 - 8.7 Occasionally, an outline point in an attachment requests information which is not applicable to the products/services proposed. If the Vendor is certain the point does not apply to the given RFP, the Vendor should respond with "NOT APPLICABLE."
 - 8.8 Where an outline point asks a question or requests information, the Vendor must respond with the specific answer or information requested.
 - 8.9 When an outline point/attachment is a statement provided for the Vendor's information only, the Vendor need only read that point. The Vendor acknowledges having read and accepting, or taking exception to, all sections by signing the *Submission Cover Sheet* and providing a *Proposal Exception Summary Form*.
 - 8.10 Where a minimum requirement has been identified, respond by stating the item (e.g., device name/model number, guaranteed response time) proposed and how it will meet the specifications.
 - 8.11 The Vendor must fully respond to each requirement within the *Technical Specifications* by fully describing the manner and degree by which the proposal meets or exceeds said requirements.
9. It is the responsibility of the Vendor to clearly identify all costs associated with any item or series of items in this RFP. The Vendor must include and complete all parts of the cost proposal in a clear and accurate manner. **Omissions, errors, misrepresentations, or inadequate details in the Vendor's cost proposal may be grounds for rejection of the Vendor's proposal. Costs that are not clearly identified will be borne by the Vendor.** The Vendor must complete the *Cost Information Submission* in this RFP, which outlines the minimum requirements for providing cost information. The Vendor should supply supporting details as described in the *Cost Information Submission*.

10. **ITS** reserves the right to request additional information or clarification of a Vendor's proposal. The Vendor's cooperation during the evaluation process in providing **ITS** staff with adequate responses to requests for clarification will be considered a factor in the evaluation of the Vendor's overall responsiveness. Lack of such cooperation or failure to provide the information in the manner required may, at the State's discretion, result in the disqualification of the Vendor's proposal.
11. Unsolicited clarifications and updates submitted after the deadline for proposals will be accepted or rejected at the sole discretion of **ITS**.
12. Unsolicited clarifications in the evaluation and selection of lowest and best proposal will be considered only if all the following conditions are met:
 - 12.1 A clarification to a proposal that includes a newly announced product line or service with equal or additional capability to be provided at or less than the proposed price will be considered.
 - 12.2 Information provided must be in effect nationally and have been formally and publicly announced through a news medium that the Vendor normally uses to convey customer information.
 - 12.3 Clarifications must be received early enough in the evaluation process to allow adequate time for re-evaluation.
 - 12.4 The Vendor must follow procedures outlined herein for submitting updates and clarifications.
 - 12.5 The Vendor must submit a statement outlining the circumstances for the clarification.
 - 12.6 The Vendor must submit one clearly marked original and five (5) copies of the clarification.
 - 12.7 The Vendor must be specific about which part of the original proposal is being changed by the clarification (i.e., must include exact RFP reference to section and outline point).
13. **Communications with State**

From the issue date of this RFP until a Vendor is selected and the selection is announced, responding Vendors or their representatives may not communicate, either orally or in writing regarding this RFP with any statewide elected official, state officer or employee, member of the legislature or legislative employee except as noted herein. To ensure equal treatment for each responding Vendor, all questions regarding this RFP must be submitted in writing to the State's contact person for the selection process, and not later than the last date for accepting responding Vendor questions provided in this RFP. All such questions will be answered officially by the State in writing. All such questions and

answers will become addenda to this RFP, and they will be posted to the ITS web site. Vendors failing to comply with this requirement will be subject to disqualification.

- 13.1 The State's contact person for the selection process is: Melinda Simmons, Technology Consultant, 301 North Lamar Street, Ste. 508, Jackson, MS 39201, 601-359-9535, Melinda.Simmons@its.ms.gov.

- 13.2 Vendor may consult with State representatives as designated by the State's contact person identified in 13.1 above in response to State-initiated inquiries. Vendor may consult with State representatives during scheduled oral presentations and demonstrations excluding site visits.

SECTION III VENDOR INFORMATION

The objective of the Vendor Information section of this RFP is to provide Vendors with information required to respond to the RFP successfully.

1. Interchangeable Designations

The terms “Vendor” and “Contractor” are referenced throughout this RFP. Generally, references to the “Vendor” are used in conjunction with the proposing organization and procurement process leading up to the final RFP selection and award. The term “Contractor” denotes the role assumed, post-award, by the winning Vendor. Additionally, the terms “State of Mississippi,” “State” or “ITS” may be used interchangeably throughout this RFP to denote the political entity issuing the RFP and requesting responses from Vendors throughout these specifications. References to a specific agency, institution or other political entity represent the client or customer on whose behalf ITS is issuing the RFP.

2. Vendor’s Responsibility to Examine RFP

Vendors must examine all documents, forms, specifications, standard provisions, and instructions.

3. Proposal as Property of State

All written proposal material becomes the property of the State of Mississippi.

4. Written Amendment to RFP

Any interpretation of an ITS RFP will be made by written amendment only. The State will not be responsible for any other explanation of this RFP. A copy of any amendment will be posted on the ITS website, together with the associated RFP specification. Vendors are required to check the ITS website periodically for RFP amendments before the proposal opening date at: http://www.its.ms.gov/rfps/rfps_awaiting.shtml.

Any and all amendments will be posted no later than noon, seven days prior to the proposal opening date listed on the cover page of this RFP. Should you be unable to access the ITS website, you may contact the ITS technology consultant listed on page one of this RFP and request a copy.

5. Oral Communications Not Binding

Only transactions which are in writing from ITS may be considered official. No negotiations, decisions, or actions shall be executed by any Vendor as a result of any discussions with any State employee.

6. Vendor’s Responsibility for Delivery

Vendors must ensure, through reasonable and sufficient follow-up, proper compliance with, and fulfillment of all schedules and deliverables specified within the body of this RFP. The State will not be responsible for the failure of any delivery medium for

submission of information to or from the Vendor, including but not limited to, public and private carriers, U.S. mail, Internet Service Providers, facsimile, or e-mail.

7. **Evaluation Criteria**

The State's intent in issuing this RFP is to award a contract to the lowest and best responsive Vendor who meets specifications, considering price and other factors. The Vendor's past performance, cooperation, and ability to provide service and training are general factors that will be weighed in the selection process. More specific information concerning evaluation criteria is presented in *Technical Specifications*.

8. **Multiple Awards**

ITS reserves the right to make multiple awards.

9. **Right to Award in Whole or Part**

ITS reserves the right to approve an award by individual items or in total, whichever is deemed to be in the best interest of the State of Mississippi.

10. **Right to Use Proposals in Future Projects**

The State reserves the right to evaluate the awarded proposal from this RFP, including all products and services proposed therein, along with the resulting contractual terms, for possible use in future projects if (a) it is deemed to be in the best interest of the State to do so; and (b) the Vendor is willing to extend a cost less than or equal to that specified in the awarded proposal and resulting contract. A decision concerning the utilization of a Vendor's proposal for future projects is solely at the discretion of the State and requires the agreement of the proposing Vendor. The State's decision to reuse an awarded proposal will be based upon such criteria as: (1) the customer's business requirements; (2) elapsed time since the award of the original project; and/or (3) research on changes in the Vendor, market, and technical environments since the initial award.

11. **Price Changes During Award or Renewal Period**

A price increase will not be accepted during the award period or the renewal period, unless stipulated in the contract. However, the State will always take advantage of price decreases.

12. **Right to Request Information**

The State reserves the right to request information relative to a Vendor's references and financial status and to visit a Vendor's facilities during normal working hours. The State also reserves the right to request a current financial statement, prepared and certified by an independent auditing firm, and reserves the right to require that Vendors document their financial ability to provide the products and services proposed up to the total dollar amount of the Vendor's cost proposal. The State reserves the right to request information about the Vendor from any previous customer of the Vendor of whom the State is aware, even if that customer is not included in the Vendor's list of references.

13. Vendor Personnel

For RFPs including professional services specifications, the Vendor will be required to provide and/or certify the following for each individual included in the Vendor's proposal:

- 13.1 A direct telephone number at which the individual may be contacted for a telephone interview. The State will pay toll charges in the continental United States. The Vendor must arrange a toll-free number for all other calls.
- 13.2 That, if onsite interviews are required, the individual can be at the specified location in Mississippi within the timeframe specified. All costs associated with onsite interviews will be the responsibility of the Vendor.
- 13.3 That the individual is proficient in spoken and written English;
- 13.4 That the individual is a U.S. citizen or that the individual meets and will maintain employment eligibility requirements in compliance with all INS regulations. The Vendor must provide evidence of identification and employment eligibility prior to the award of a contract that includes any personnel who are not U. S. citizens.
- 13.5 That the personnel assigned to a project will remain a part of the project throughout the duration of the contract as long as the personnel are employed by the Vendor, unless replaced by the Vendor at the request of the State. This requirement includes the responsibility for ensuring all non-citizens maintain current INS eligibility throughout the duration of the contract.

14. Vendor Imposed Constraints

The Vendor must specifically document what limitations, if any, exist in working with any other Contractor acting in the capacity of the State's business partner, subcontractor or agent who may be managing any present or future projects; performing quality assurance; integrating the Vendor's software; and/or providing web-hosting, hardware, networking or other processing services on the State's behalf. The project relationship may be based on roles as either equal peers; supervisory – subordinate; or subordinate – supervisory, as determined by the State. The State recognizes that the Vendor may have trade secrets, intellectual property and/or business relationships that may be subject to its corporate policies or agreements. The State must understand these issues in order to decide to what degree they may impact the State's ability to conduct business for this project. These considerations will be incorporated accordingly into the proposal evaluation and selection process. The understanding reached between the Vendor and the State with regard to this business relationship precludes the Vendor from imposing any subsequent limitations of this type in future project undertakings by the State.

15. Best and Final Offer

The State reserves the right to solicit Best and Final Offers (BAFOs) from Vendors, principally in situations in which proposal costs eclipse available funding or the State believes none of the competing proposals presents a Best Value (lowest and best proposal) opportunity. Because of the time and expense incurred by both the Vendor community and the State, BAFOs are not routinely conducted. Vendors should offer their best pricing with the initial solicitation. Situations warranting solicitation of a BAFO will be considered an exceptional practice for any procurement. Vendors that remain in a competitive range within an evaluation may be requested to tender Best and Final Offers, at the sole discretion of the State. All such Vendors will be provided an equal opportunity to respond with a Best and Final Offer under a procedure to be defined by the State that encompasses the specific, refined needs of a project, as part of the BAFO solicitation. The State may re-evaluate and amend the original project specifications should it be deemed necessary in order to improve the opportunity for attaining Best Value scenarios from among the remaining competing Vendors. All BAFO proceedings will be uniformly conducted, in writing and subject to solicitation by the State and receipt from the Vendors under a precise schedule.

16. Restriction on Advertising

The Vendor must receive written approval from the State before advertising or referencing the award of the contract or the services being provided. The Vendor must agree not to refer to awards in commercial advertising in such a manner as to state or imply that the firm or its services are endorsed or preferred by the State of Mississippi.

17. Rights Reserved to Use Existing Product Contracts

The State reserves the right on turnkey projects to secure certain products from other existing ITS contracts if it is in its best interest to do so. If this option is exercised, then the awarded Vendor must be willing to integrate the acquisition and implementation of such products within the schedule and system under contract.

18. Additional Information to be Included

In addition to answering each specification within this RFP, the Vendor must include complete product/service information, including product pictorials and technical/descriptive literature relative to any product/service offered with the proposal. Information submitted must be sufficiently detailed to substantiate that the products/services offered meet or exceed specifications.

19. Valid Contract Required to Begin Work

The successful Vendor should not commence any billable work until a valid contract has been executed. Any work done by the successful Vendor prior to the execution of the contract is done at the Vendor's sole risk. The State is under no obligation to pay for work done prior to the execution of a contract.

SECTION IV LEGAL AND CONTRACTUAL INFORMATION

The objective of the *Legal and Contractual Information* section is to provide Vendors with information required to complete a contract or agreement with **ITS** successfully.

1. **Acknowledgment Precludes Later Exception**

By signing the *Submission Cover Sheet*, the Vendor is contractually obligated to comply with all items in this RFP, including the *Standard Contract* in Exhibit A if included herein, except those specifically listed as exceptions on the *Proposal Exception Summary Form*. If no *Proposal Exception Summary Form* is included, the Vendor is indicating that he takes no exceptions. Vendors who respond to this RFP by signing the *Submission Cover Sheet* may not later take exception to any item in the RFP during contract negotiations. This acknowledgement also contractually obligates any and all subcontractors that may be proposed. No exceptions by subcontractors or separate terms and conditions will be entertained after the fact.

2. **Failure to Respond as Prescribed**

Failure to respond as described in Section II: *Proposal Submission Requirements* to any item in the sections and exhibits of this RFP, including the *Standard Contract* attached as Exhibit A, if applicable, shall contractually obligate the Vendor to comply with that item.

3. **Contract Documents**

ITS will be responsible for all document creation and editorial control over all contractual documentation related to each procurement project. The following documents will normally be included in all contracts between **ITS** and the Vendor:

- 3.1 The Proposal Exception Summary Form as accepted by **ITS**;
- 3.2 Contracts which have been signed by the Vendor and **ITS**;
- 3.3 **ITS'** Request for Proposal, including all addenda;
- 3.4 Official written correspondence from **ITS** to the Vendor;
- 3.5 Official written correspondence from the Vendor to **ITS** when clarifying the Vendor's proposal; and
- 3.6 The Vendor's proposal response to the **ITS** RFP.

4. **Order of Precedence**

When a conflict arises regarding contract intent due to conflicting statements in documents included in the contract, the order of precedence of each document is as listed above unless modification of order is negotiated and agreed upon by both **ITS** and the winning Vendor.

5. Additional Contract Provisions

The contract will also include such additional provisions, which are not inconsistent or incompatible with the material terms of this RFP, as may be agreed upon by the parties. All of the foregoing shall be in such form and substance as prescribed by the State.

6. Contracting Agent by Law

The Executive Director of **ITS** is, by law, the purchasing and contracting agent for the State of Mississippi in the negotiation and execution of all contracts for the acquisition of computer and telecommunications equipment, systems, software, and services (Section 25-53-1, et seq., of the Mississippi Code Annotated). **ITS** is issuing this RFP on behalf of the procuring agency or institution. **ITS** and the procuring agency or institution are sometimes collectively referred to within this RFP as "State."

7. Mandatory Legal Provisions

- 7.1 The State of Mississippi is self-insured; all requirements for the purchase of casualty or liability insurance are deleted.
- 7.2 Any provisions disclaiming implied warranties shall be null and void. See Mississippi Code Annotated Sections 11-7-18 and 75-2-719(4). The Vendor shall not disclaim the implied warranties of merchantability and fitness for a particular purpose.
- 7.3 The Vendor shall have no limitation on liability for claims related to the following items:
 - 7.3.1 Infringement issues;
 - 7.3.2 Bodily injury;
 - 7.3.3 Death;
 - 7.3.4 Physical damage to tangible personal and/or real property; and/or
 - 7.3.5 The intentional and willful misconduct or negligent acts of the Vendor and/or Vendor's employees or subcontractors.
- 7.4 All requirements that the State pay interest (other than in connection with lease-purchase contracts not exceeding five years) are deleted.
- 7.5 Any contract negotiated under this RFP will be governed by and construed according to the laws of the State of Mississippi. Venue for the resolution of any dispute shall be Jackson, Hinds County, Mississippi.

- 7.6 Any contract negotiated under this RFP is cancelable in the event the funding authority does not appropriate funds. Notice requirements to Vendor cannot exceed sixty (60) days.
- 7.7 The State of Mississippi does not waive its sovereign immunities or defenses as provided by law by entering into this contract with the Vendor, Vendor agents, subcontractors, or assignees.
- 7.8 The State will deliver payments to the Vendor within forty-five (45) days after receipt of invoice and receipt, inspection, and approval of Vendor's products/services. No late charges will exceed 1.5% per month on any unpaid balance from the expiration of said period until payment is delivered. See Section 31-7-305 of the Mississippi Code Annotated. Seller understands and agrees that Purchaser is exempt from the payment of taxes.
- 7.9 The State shall not pay any attorney's fees, prejudgment interest or the cost of legal action to or for the Vendor.

8. Approved Contract

- 8.1 Award of Contract - A contract is considered to be awarded to a proposer once the proposer's offering has been approved as lowest and best proposal through:
 - 8.1.1 Written notification made to proposers on **ITS** letterhead, or
 - 8.1.2 Notification posted to the **ITS** website for the project, or
 - 8.1.3 CP-1 authorization executed for the project, or
 - 8.1.4 The **ITS** Board's approval of same during an open session of the Board.
- 8.2 **ITS** statute specifies whether **ITS** Director approval or **ITS** Board approval is applicable for a given project, depending on the total life-cycle cost of the contract.
- 8.3 A contract is not deemed final until five (5) working days after either the award of contract or post procurement review, as stipulated in the **ITS** Protest Procedure and Policy. In the event of a valid protest, the State may, at its sole discretion, continue the procurement or stay the procurement in accordance with the **ITS** Protest Procedure and Policy. If the procurement is stayed, the contract is not deemed final until the protest is resolved.

9. Contract Validity

All contracts are valid only if signed by the Executive Director of **ITS**.

10. Order of Contract Execution

Vendors will be required to sign contracts and to initial all contract changes before the Executive Director of ITS signs.

11. Availability of Funds

All contracts are subject to availability of funds of the acquiring State entity and are contingent upon receipt by the winning Vendor of a purchase order from the acquiring State entity.

12. CP-1 Requirement

All purchase orders issued for goods and services acquired from the awarded Vendor under this RFP must be encoded by the Customer agency with a CP-1 approval number assigned by ITS. This requirement does not apply to acquisitions that by policy have been delegated to State entities.

13. Requirement for Electronic Payment and Invoicing

13.1 Payments to the awarded Vendor for all goods and services acquired under this RFP by state agencies that make payments through the Statewide Automated Accounting System ("SAAS") will be made electronically, via deposit to the bank account of the Vendor's choice. The awarded Vendor must enroll and be activated in PayMode™, the State's current vehicle for sending and receiving electronic payments, prior to receiving any payments from state agencies. There is no charge for a Vendor to enroll or receive payments via PayMode. For additional information on PayMode, including registration instructions, Vendors should visit the following website: <http://portal.paymode.com/ms/>. Vendors may also request assistance from the Mississippi Management and Reporting System (MMRS) Call Center regarding PayMode registration by contacting mash@dfa.state.ms.us.

13.2 For state agencies that make payments through SAAS, the awarded Vendor may be required to submit electronically all invoices for goods and services acquired under this RFP, along with appropriate supporting documentation, as directed by the State. Should the requirement for electronic invoicing be implemented during the term of the project contract, the State will work with the Vendor to determine a reasonable timeframe for initiating electronic invoicing.

13.3 Items 13.1 and 13.2 only apply to state agencies that make payments through SAAS. Payments and invoices for all other entities will conform to their standard methods of payment to contractors.

14. Time For Negotiations

14.1 All contractual issues must be successfully negotiated within fifteen (15) working days from the Vendor's initial receipt of the project contract from

ITS, unless **ITS** consents to extend the period. Failure to complete negotiations within the stated time period constitutes grounds for rejection of the Vendor's response to this RFP. **ITS** may withdraw the proposal award and begin negotiations with the next ranked Vendor immediately or pursue any other option.

- 14.2 Negotiations shall be limited to items to which the Vendor has noted as exceptions on their Proposal Exception Summary Form, as well as any new items that the State may require. All contract changes requested by the Vendor related to such exceptions noted in Vendor's proposal shall be submitted three (3) working days prior to scheduled negotiations, unless **ITS** consents to a different period.

15. **Prime Contractor**

The selected Vendor will be designated the prime contractor in the proposal, and as such, shall be solely responsible for all products/services offered in the proposal and for the fulfillment of the contract with the State.

16. **Sole Point of Contact**

ITS will consider the selected Vendor to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract.

- 16.1 The Vendor must acknowledge and agree that in matters of proposals, clarifications, negotiations, contracts and resolution of issues and/or disputes, the Vendor represents all contractors, third parties and/or subcontractors the Vendor has assembled for this project. The Vendor's commitments are binding on all such parties and consequently the State is only required to negotiate with the Vendor.

- 16.2 Furthermore, the Vendor acknowledges and agrees to pass all rights and/or services related to all general consulting, services leasing, software licensing, warranties, hardware maintenance and/or software support to the State from any contractor, third party or subcontractor without the State having to negotiate separately or individually with any such parties for these terms or conditions.

- 16.3 Should a proposing Vendor wish to assign payment of any or all charges resulting from this contract to a third party, Vendor must disclose that fact in his/her proposal, along with the third party's name, address, nature of business, and relationship to the proposing Vendor, the reason for and purpose of the assignment, and all conditions of the assignment, including but not limited to a copy of an assignment document to be executed by the State, the Vendor, and the third party. Such assignments will be accepted or rejected at the sole discretion of the State. Vendor must clearly and definitively state in his/her proposal whether the proposal is contingent upon the requested assignment of payments. Whenever any assignment of payment is requested,

the proposal, contract, and assignment document must include language specifically guaranteeing that the proposing Vendor is solely and fully liable and responsible for the performance of its obligations under the subject contract. No assignment of payment will be considered at the time of purchase unless such assignment was fully disclosed in the Vendor's proposal and subsequently accepted by the State.

17. ITS Approval of Subcontractor Required

Unless provided in the contract, the Vendor shall not contract with any other party for furnishing any of the contracted work or services without the consent, guidance, and written approval of the State. **ITS** reserves the right of refusal and the right to request replacement of a subcontractor due to unacceptable work or conduct. This provision should not be interpreted as requiring the approval of individual contracts of employment between the Vendor and personnel assigned for services under the contract.

18. Inclusion of Subcontract Agreements

Copies of any agreements to be executed between the Vendor and any subcontractors must be included in the Vendor's proposal.

19. Negotiations with Subcontractor

In order to protect the State's interest, **ITS** reserves the right to attempt to resolve the contractual disagreements that may arise between the Vendor and its subcontractor after award of the contract.

20. References to Vendor to Include Subcontractor

All references in the RFP to "Vendor" shall be construed to encompass both the Vendor and its subcontractors.

21. Outstanding Vendor Obligations

- 21.1 Any Vendor who presently owes the State of Mississippi money pursuant to any contract for which **ITS** is the contracting agent and who has received written notification from **ITS** regarding the monies owed, must submit, with the proposal, a certified check in the amount due and owing in order for the proposal in response to this RFP to be considered. For a Vendor currently in bankruptcy as of the RFP submission date, this requirement is met, if and only if, **ITS** has an active petition before the appropriate bankruptcy court for recovery of the full dollar amount presently owed to the State of Mississippi by that Vendor. If the Vendor has emerged from bankruptcy by the RFP submission date, the Vendor must pay in full any amount due and owing to the State, as directed in the court-approved reorganization plan, prior to any proposal being considered.
- 21.2 Any Vendor who is presently in default on existing contracts for which **ITS** is the contracting agent, or who otherwise is delinquent in the performance of any such contracted obligations, is in the sole judgment of the State required

to make arrangement for fulfilling outstanding obligations to the satisfaction of the State in order for the proposal to be considered.

- 21.3 The State, at its sole discretion, may reject the proposal of a Vendor with any significant outstanding financial or other obligations to the State or who is in bankruptcy at the time of proposal submission.
22. **Equipment Condition**
For all RFPs requiring equipment, the Vendor must furnish only new equipment in response to **ITS** specifications, unless an explicit requirement for used equipment is otherwise specified.
23. **Delivery Intervals**
The Vendor's proposal must specify, in the *Cost Information Submission* and in response to any specific instructions in the *Technical Specifications*, delivery and installation intervals after receipt of order.
24. **Pricing Guarantee**
The Vendor must explicitly state, in the *Cost Information Submission* and in response to any specific instructions in the *Technical Specifications*, how long the proposal will remain valid. Unless stated to the contrary in the *Technical Specifications*, pricing must be guaranteed for a minimum of ninety (90) days.
25. **Shipping Charges**
For all RFPs requiring shipment of any product or component, all products must be delivered FOB destination to any location within the geographic boundaries of the State with all transportation charges prepaid and included in the RFP proposal or LOC quotation. Destination is the point of use.
26. **Amortization Schedule**
For all RFPs requiring equipment, contracts involving the payment of interest must include an amortization schedule clearly documenting the amount of interest payable over the term of the contract.
27. **Americans with Disabilities Act Compliance for Web Development and Portal Related Services**
All Web and Portal development work must be designed and implemented in compliance with the Electronic and Information Technology Accessibility Standards associated with Section 508 of the Rehabilitation Act and with the Web Accessibility Initiative (WAI) of the W3C.
28. **Ownership of Developed Software**
28.1 When specifications require the Vendor to develop software for the State, the Vendor must acknowledge and agree that the State is the sole owner of such developed software with exclusive rights to use, alter, or distribute the

software without restriction. This requirement applies to source code, object code, and documentation.

- 28.2 The State may be willing to grant the Vendor a nonexclusive license to use the State's software subject to devising acceptable terms and license fees. This requirement is a matter of State Law, and not negotiable.
29. **Ownership of Custom Tailored Software**
In installations where the Vendor's intellectual property is modified and custom-tailored to meet the needs of the State, the Vendor must offer the State an application license entitling the State to use, and/or alter the software without restriction. These requirements apply to source code, object code and documentation.
30. **Terms of Software License**
The Vendor acknowledges and agrees that the term of all software licenses provided to the State shall be perpetual unless stated otherwise in the Vendor's proposal.
31. **The State is Licensee of Record**
The Vendor must not bypass the software contracting phase of a project by licensing project software intended for State use in its company name. Upon award of a project, the Vendor must ensure that the State is properly licensed for all software that is proposed for use in a project.
32. **Remote Access via Virtual Private Network**
Vendor must understand that the State of Mississippi's Enterprise Security Policy mandates that all remote access to and/or from the State network must be accomplished via a Virtual Private Network (VPN). If remote access is required at any time during the life of this Agreement, Vendor and the State agree to implement/maintain a VPN for this connectivity. This required VPN must be IPSec-capable (ESP tunnel mode) and will terminate on a Cisco VPN-capable device (i.e. VPN concentrator, PIX firewall, etc.) on the State's premises. Vendor agrees that it must, at its expense, implement/maintain a compatible hardware/software solution to terminate the specified VPN on the State's premises. The parties further understand and agree that the State protocol standard and architecture are based on industry-standard security protocols and manufacturer engaged at the time of contract execution. The State reserves the right to introduce a new protocol and architecture standard and require the Vendor to comply with same, in the event the industry introduces a more secure, robust protocol to replace IPSec/ESP and/or there is a change in the manufacturer engaged.
33. **Negotiating with Next-Ranked Vendor**
Should the State cease doing business with any Vendor selected via this RFP process, for any reason, the State reserves the right to initiate negotiations with the next ranked Vendor.
34. **Disclosure of Proposal Information**

Vendors should be aware that any information in a proposal may be subject to disclosure or reproduction under the Mississippi Public Records Act of 1983, defined in Section 25-61-1 et seq. of the Mississippi Code Annotated. All disclosures of proposal information will be made in compliance with the **ITS** Public Records Procedures established in accordance with the Mississippi Public Records Act. The **ITS** Public Records Procedures are available in Section 019-010 of the **ITS** Procurement Handbook, on the **ITS** Internet site at: <http://dsitspe01.its.ms.gov/its/procman.nsf/TOC4?OpenView> or from **ITS** upon request.

As outlined in the Third Party Information section of the **ITS** Public Records Procedures, **ITS** will give written notice to any affected Vendor of a request to view or reproduce the Vendor's proposal or portion thereof. **ITS** will not, however, give such notice with respect to summary information prepared in connection with the State's review or evaluation of a Vendor's proposal, including, but not limited to, written presentations to the **ITS** Board or other approving bodies, and/or similar written documentation prepared for the project file. In addition, **ITS** will not provide third-party notice for requests for any contract executed as a result of this RFP, with the exception of information contained in contract exhibits identified and labeled as confidential during the contract negotiation process. **ITS** will provide third-party notice of requests for any such confidential exhibits to allow Vendor the opportunity to protect the information by court order as outlined in the **ITS** Public Records Procedures.

Summary information and contract terms, as defined above, become the property of **ITS**, who has the right to reproduce or distribute this information without notification.

Vendors should further be aware that requests for disclosure of proposal and contract information are sometimes received by **ITS** significantly after the proposal opening date. **ITS** will notify the signatory "Officer in Bind of Company" provided in Section I of this RFP for Notification of Public Records Requests in the event information is requested that your company might wish to consider protecting as a trade secret or as confidential commercial or financial information. If the "Officer in Bind of Company" should not be used for notification of public records requests, Vendor should provide the alternative contact information in response to this RFP item.

35. Risk Factors to be Assessed

The State will assess risk factors that may initially exist within a given procurement and that may develop over the course of a procurement process as facts become known. The State, at its sole discretion, may employ the following mechanisms in mitigating these risks: proposal bonding, performance bonding, progress payment plan with retainage, inclusion of liquidated damages, and withholding payment for all portions of the products/services acquired until final acceptance. The Vendor must agree to incorporate any or all of the above terms and conditions into the customer agreement.

36. Proposal Bond

The Vendor must include a proposal bond in the amount of \$10,000.00 with its RFP proposal. Vendor is specifically disallowed from taking exception to the proposal bond requirement. Proposals without proposal bonds will be rejected.

If a proposal bond is required, the security must be in the form of a bond, irrevocable letter of credit, certified check, or cashier's check (hereinafter, "security") payable to the Mississippi Wireless Communication Commission, to be held by their contracting agent, the Mississippi Department of Information Technology Services, and must be placed in the front of the Vendor's proposal. The submission of an acceptable security is a condition precedent to a valid proposal, and the amount of the security is not negotiable or contestable. Any proposal received without the security will be rejected and returned to the Vendor without further consideration.

The security binds the Vendor to the commitments made in writing in the Vendor's proposal. The security will be forfeited in the event the awarded Vendor, at any time during the contract negotiation process, refuses to honor commitments made in its proposal, reneges on pricing, takes exception to any term or condition that was not addressed in the Vendor's written proposal, or fails to execute a contract as anticipated in the RFP and the Vendor's proposal, including documented exceptions, within fifteen (15) working days after the Vendor's initial receipt of the project contract from **ITS**, unless an extension is agreed to by **ITS**.

As stated in the RFP, the Vendor may take exception to any point without incurring any liability to provide items to which an exception has been taken. Likewise, the State has no obligation to accept any proposed exception. Should the State decide, at its sole discretion and at any point in the process, that an exception is NOT acceptable, **ITS** will reject the Vendor's proposal and return the Vendor's security.

The Vendor's security will be returned promptly after **ITS** and the successful Vendor have executed a contract or within ninety (90) days after opening the proposals if no letter of intent to award a contract has been sent. In the event that the successful Vendor fails to accept and sign the mutually negotiated contract, that Vendor shall be disqualified and **ITS** shall initiate negotiations with the next ranked Vendor until a contract is successfully negotiated, or **ITS** elects to cancel the procurement. The securities of all remaining Vendors will be returned when a contract has been successfully negotiated and executed, or when the procurement is canceled.

37. Performance Bond/Irrevocable Bank Letter of Credit

The Vendor must include the price of a performance bond or irrevocable bank letter of credit with his RFP proposal. The cost of the bond or letter of credit must be shown as a separate line item in the *Cost Information Submission*. The performance bond or letter of credit must be procured at the Vendor's expense prior to the execution of the contract and may be invoiced to Mississippi Wireless Communication Commission after contract initiation only if itemized in the *Cost Information Submission* and in the executed contract. **The final decision as to the requirement for a Performance Bond or**

Irrevocable Bank Letter of Credit will be made upon contract award and is at the State's sole discretion.

The Vendor must procure and submit to **ITS**, on behalf of Mississippi Wireless Communication Commission, with the executed contract, (a) a performance bond from a reliable surety company authorized to do business in the State of Mississippi or (b) an irrevocable bank letter of credit that is acceptable to the State. The Performance Bond or the Irrevocable Letter of Credit shall be for the total amount of the contract or an amount mutually agreed upon by the State and the successful Vendor and shall be payable to Mississippi Wireless Communication Commission, to be held by their contracting agent, the Mississippi Department of Information Technology Services. No contract resulting from this RFP will be valid until the required Performance Bond or Irrevocable Bank Letter of Credit has been received and found to be in proper form and amount. The Vendor agrees that the State has the right to request payment for a partial amount or the full amount of the Irrevocable Letter of Credit/Performance bond should the products/services being procured hereunder not be provided in a manner consistent with this RFP and the Vendor's proposal by the delivery dates agreed upon by the parties. The State may demand payment by contacting the bank issuing the letter of credit or the bonding company issuing the performance bond and making a written request for full or partial payment. The issuing bank/bonding company is required to honor any demand for payment from the State within fifteen (15) days of notification. The letter of credit/performance bond shall cover the entire contract period, with the exception of post-warranty maintenance and support, and shall not be released until final acceptance of all products and deliverables required herein or until the warranty period, if any, has expired, whichever occurs last. If applicable, and at the State's sole discretion, the State may, at any time during the warranty period, review Vendor's performance and performance of the products/services delivered and determine that the letter of credit/performance bond may be reduced or released prior to expiration of the full warranty period.

38. Responsibility for Behavior of Vendor Employees/Subcontractors

The Vendor will be responsible for the behavior of all its employees and subcontractors while on the premises of any State agency or institution. Any Vendor employee or subcontractor acting in a manner determined by the administration of any State agency or institution to be detrimental, abusive, or offensive to any of the staff or student body of any State agency or institution will be asked to leave the premises and can be suspended from further work on the premises.

39. Protests

The Executive Director of **ITS** and/or the Board Members of **ITS** or their designees shall have the authority to resolve **Vendor protests in connection with the** selection for award of a contract. Copies of the protest procedures are available on the **ITS** Internet site - **ITS** Protest Procedure and Policy, Section 019-020, **ITS** Procurement Handbook at: <http://dsitspe01.its.ms.gov/its/procman.nsf/TOC4?OpenView> or from **ITS** upon request.

40. **Protest Bond**

Potential Vendors may protest any of the specifications of this RFP on the belief that the specification is unlawful, unduly restrictive, or unjustifiably restraining to competition. Any such protest must be in writing and submitted to the **ITS** Executive Director along with the appropriate protest bond within five (5) working days of the Official Release of the RFP, as defined in the **ITS** Protest Procedure and Policy. The outside of the envelope must be marked "Protest" and must specify RFP number 3584.

As a condition precedent to filing any protest related to this procurement, the Vendor must procure, submit to the **ITS** Executive Director with its written protest, and maintain in effect at all times during the course of the protest or appeal thereof, a protest bond in the full amount of the total estimated project life cycle cost or \$250,000.00, whichever is less. The total estimated project life cycle cost will be the amount used by **ITS** in the computation of cost points, as the low cost in the denominator of the cost evaluation formula. The bond shall be accompanied by a duly authenticated or certified document evidencing that the person executing the bond is a licensed Mississippi agent for the bonding company. This certified document shall identify the name and address of the person or entity holding the protest bond and shall identify a contact person to be notified in the event that the State is required to take action against the bond. The protest bond shall not be released to the protesting Vendor until the protest is finally resolved and the time for appealing said protest has expired. The protest bond shall be procured at the protesting Vendor's expense and be payable to the Mississippi Department of Information Technology Services. Prior to approval of the protest bond, **ITS** reserves the right to review the protest bond and require the protesting Vendor to substitute an acceptable bond in such form as the State may reasonably require. The premiums on such bond shall be paid by the protesting Vendor. The State may claim against the protest bond as specified in Section 25-53-5 (n) of the Mississippi Code of 1972, as amended during the 1998 Mississippi legislative session, in addition to all other rights and remedies the State may have at law or in equity.

Should the written protest submitted by the Vendor fail to comply with the content requirements of **ITS'** protest procedure and policy, fail to be submitted within the prescribed time limits, or fail to have the appropriate protest bond accompany it, the protest will be summarily dismissed by the **ITS** Executive Director.

41. **Mississippi Employment Protection Act**

Effective July 1, 2008, Vendor acknowledges that if awarded, it will ensure its compliance with the Mississippi Employment Protection Act (Senate Bill 2988 from the 2008 Regular Legislative Session) and will register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Vendor will agree to maintain records of such compliance and, upon request of the State, to provide a copy of

each such verification to the State.

Vendor acknowledges and certifies that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi.

Vendor acknowledges that violating the E-Verify Program (or successor thereto) requirements subjects Vendor to the following: (a) cancellation of any state or public contract and ineligibility for any state or public contract for up to three (3) years, with notice of such cancellation being made public, or (b) the loss of any license, permit, certification or other document granted to Vendor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. Vendor would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit.

SECTION V PROPOSAL EXCEPTIONS

Please return the *Proposal Exception Summary Form* at the end of this section with all exceptions to items in any Section of this RFP listed and clearly explained or state “No Exceptions Taken.” If no *Proposal Exception Summary Form* is included, the Vendor is indicating that he takes no exceptions to any item in this RFP document.

1. Unless specifically disallowed on any specification herein, the Vendor may take exception to any point within this RFP, including a specification denoted with “shall” or “must,” as long as the following are true:
 - 1.1 The specification is not a matter of State law;
 - 1.2 The proposal still meets the intent of the RFP;
 - 1.3 A *Proposal Exception Summary Form* is included with Vendor’s proposal; and
 - 1.4 The exception is clearly explained, along with any alternative or substitution the Vendor proposes to address the intent of the specification, on the *Proposal Exception Summary Form*.
2. The Vendor has no liability to provide items to which an exception has been taken. **ITS** has no obligation to accept any exception. During the proposal evaluation and/or contract negotiation process, the Vendor and **ITS** will discuss each exception and take one of the following actions:
 - 2.1 The Vendor will withdraw the exception and meet the specification in the manner prescribed;
 - 2.2 **ITS** will determine that the exception neither poses significant risk to the project nor undermines the intent of the RFP and will accept the exception;
 - 2.3 **ITS** and the Vendor will agree on compromise language dealing with the exception and will insert same into the contract; or
 - 2.4 None of the above actions is possible, and **ITS** either disqualifies the Vendor’s proposal or withdraws the award and proceeds to the next ranked Vendor.
3. Should **ITS** and the Vendor reach a successful agreement, **ITS** will sign adjacent to each exception which is being accepted or submit a formal written response to the *Proposal Exception Summary* responding to each of the Vendor’s exceptions. The *Proposal Exception Summary*, with those exceptions approved by **ITS**, will become a part of any contract on acquisitions made under this RFP.

4. An exception will be accepted or rejected at the sole discretion of the State.
5. The State desires to award this RFP to a Vendor or Vendors with whom there is a high probability of establishing a mutually agreeable contract, substantially within the standard terms and conditions of the State's RFP, including the *Standard Contract* in Exhibit A, if included herein. As such, Vendors whose proposals, in the sole opinion of the State, reflect a substantial number of material exceptions to this RFP, may place themselves at a comparative disadvantage in the evaluation process or risk disqualification of their proposals.
6. For Vendors who have successfully negotiated a contract with **ITS** in the past, **ITS** requests that, prior to taking any exceptions to this RFP, the individual(s) preparing this proposal first confer with other individuals who have previously submitted proposals to **ITS** or participated in contract negotiations with **ITS** on behalf of their company, to ensure the Vendor is consistent in the items to which it takes exception.

PROPOSAL EXCEPTION SUMMARY FORM

List and clearly explain any exceptions, for all RFP Sections and Exhibits, in the table below.

ITS RFP Reference	Vendor Proposal Reference	Brief Explanation of Exception	ITS Acceptance (sign here only if accepted)
(Reference specific outline point to which exception is taken)	(Page, section, items in Vendor's proposal where exception is explained)	(Short description of exception being made)	
1.			
2.			
3.			
4.			
5.			
6.			
7.			

SECTION VI RFP QUESTIONNAIRE

Please answer each question or provide the information as requested in this section.

1. **Statewide Automated Accounting System (SAAS) Information for State of Mississippi Vendor File**

- 1.1 **SAAS Vendor Code:** Any Vendor who has not previously done business with the State and has not been assigned a SAAS Vendor code should furnish a signed copy of an IRS W-9 form with the proposal. A copy of the W-9 Form can be obtained by going to the ITS website, <http://www.its.ms.gov>, clicking on the "Procurement" button to the left of the screen, selecting "Vendor Information", scrolling to the bottom of the page, and clicking on the link "Forms Required in RFP Responses." Vendors who have previously done business with the State should furnish ITS with their SAAS Vendor code.

SAAS Vendor Code: _____ OR Signed W-9 Form Attached: _____

- 1.2 **Minority Vendor Self-Certification Form:** The State of Mississippi, in an effort to capture participation by minority Vendors, asks that each Vendor review the State of Mississippi Minority Vendor Self Certification Form. This information is for tracking/reporting purposes only, and will not be used in determining which Vendor will be chosen for the project. Any Vendor who can claim status as a Minority Business Enterprise or a Woman Business Enterprise in accordance with the definitions on this form and who has not previously submitted a form to the State of Mississippi should submit the completed form with the proposal. A copy of the Minority Vendor Self-Certification Form can be obtained at: <http://www.its.ms.gov/docs/MinorityVendorSelfCertForm.pdf>. Please direct any questions about minority certification in Mississippi to the Minority Business Enterprise Division of the Mississippi Development Authority by telephone at (601) 359-3448 or via email at minority@mississippi.org.

Minority Vendor Self-Certification Form Included: _____
Minority Vendor Self-Certification Form Previously Submitted: _____
Not claiming Minority or Women Business Enterprise Status: _____

2. **Certification of Authority to Sell**

The Vendor must certify Vendor is a seller in good standing, authorized to sell and able to deliver all items and related services proposed in the State of Mississippi in the time frame specified. Does the Vendor make these certifications? (A yes or no answer is required.)

Remit Address (if different):

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7. **Web Amendments**

As stated in Section III, **ITS** will use the **ITS** website to post amendments regarding RFPs before the proposal opening at http://www.its.ms.gov/rfps/rfps_awaiting.shtml. We will post clarifications until noon seven days prior to the proposal opening date listed on the cover page of this RFP or the posted extension date, if applicable.

Vendors may list any questions or items needing clarification discovered in the week prior to the proposal opening in a written format at the beginning of the proposal binder or in the comment section for the individual offering.

Does the Vendor certify that they have reviewed a copy of the **ITS** amendments for RFPs as above stated? (A yes or no answer is required.)

SECTION VII TECHNICAL SPECIFICATIONS

1. How to Respond to this Section

- 1.1 Beginning with Item 5 of this section, label and respond to each outline point in this section as it is labeled in the RFP.
- 1.2 The Vendor must respond with “ACKNOWLEDGED,” “WILL COMPLY” or “AGREED” to each point in this section. In addition, many items in this RFP require detailed and specific responses to provide the requested information. Failure to provide the information requested will result in the Vendor receiving a lower score for that item, or, at the State’s sole discretion, being subject to disqualification.
- 1.3 “ACKNOWLEDGED” should be used when no vendor response or vendor compliance is required. “ACKNOWLEDGED” simply means the vendor is confirming to the State that he read the statement. This is commonly used in the RFP sections where the agency’s current operating environment is described or where general information is being given about the project.
- 1.4 “WILL COMPLY” or “AGREED” are used interchangeably to indicate that the vendor will adhere to the requirement. These terms are used to respond to statements that specify that a vendor or vendor’s proposed solution must comply with a specific item or must perform a certain task.
- 1.5 If the Vendor cannot respond with “ACKNOWLEDGED,” “WILL COMPLY,” or “AGREED,” then the Vendor must respond with “EXCEPTION.” (See Section V, for additional instructions regarding Vendor exceptions.)
- 1.6 Where an outline point asks a question or requests information, the Vendor must respond with the specific answer or information requested.
- 1.7 In addition to the above, Vendor must provide explicit details as to the manner and degree to which the proposal meets or exceeds each specification.

2. Mandatory Vendor Conference

- 2.1 On-site attendance at the Vendor Conference at 2:00 p.m., Wednesday, January 28, 2009, at 412 E. Woodrow Wilson Ave., Jackson, MS 39216 is mandatory for any Vendor who intends to submit an RFP response. No exceptions will be granted to this requirement. Any proposal received from a Vendor who did not have an authorized representative at the Vendor Conference will be rejected.

3. General Overview and Background

The Mississippi Wireless Communication Commission (WCC) is seeking the services of a vendor or vendors with extensive expertise and experience related to the deployment of large-scale public safety wireless communication systems. The primary focus of the services to be provided in response to this RFP is the design and construction of build-to-suit communications tower sites for the deployment of the Mississippi Wireless Information Network (MSWIN), defined below.

The State desires to partner with one or more established companies specializing in these services that have experienced, skilled, and knowledgeable staffs of engineers, legal professionals, site acquisition specialists, project managers, and other qualified professionals to comprise a team of individuals who can successfully provide all the services outlined in Sections 5-17 below.

3.1 Wireless Communication Commission

The signing of Senate Bill No. 2514 created the Wireless Communication Commission (WCC). The WCC is charged with the responsibility of: ‘...promoting the efficient use of public resources to ensure that law enforcement personnel and essential public health and safety personnel have effective communications services available in emergency situations, and to ensure the rapid restoration of such communications services in the event of disruption caused by natural disaster, terrorist attack or other public emergency.’

Since its inception the WCC has worked with federal, state and local authorities to establish or improve interoperability and encourage system planning of all public safety communications systems. It has also ensured federal/state communications rules and regulations are followed.

3.2 RFP 3429 – Statewide Wireless Voice and Data Capable Infrastructure System Acquisition

The Department of Information Technology Services (ITS) issued RFP 3429 March 2, 2006, on behalf of the Mississippi Wireless Communication Commission for the acquisition of a turnkey statewide wireless voice and data capable infrastructure system. This system will provide all system participants a public-safety grade, statewide, interoperable, seamless roaming radio system.

The RFP required that vendors provide a digital 700 MHz Public Safety communication system that is highly reliable, has fast access, and provides private communications to a wide variety of users within the state. This new infrastructure will enable state agencies and local entities that join to conduct

voice dispatch and field operations autonomously. Mobile radio units will roam seamlessly throughout the state without operator intervention. Current dispatching configurations will be preserved and provide centralized dispatch in time of need.

A three phase design and implementation approach will be employed in the construction of the Mississippi Wireless Information Network (MSWIN). Each phase will be designed, manufactured, tested, and commissioned as a standalone system. The geographic area of each phase is defined by Mississippi Highway Patrol (MHP) district boundaries, as shown in Exhibit B. Phase descriptions are:

Phase 1: Southern Region (MHP Districts 7, 8, and 9),

Phase 2: Central Region (MHP Districts 1, 5, and 6), and

Phase 3: Northern Region (MHP Districts 2, 3, and 4).

Upon its completion, the MSWIN will provide statewide radio coverage for thirteen state agencies dispatching 5,487 subscriber units.

General requirements included in RFP 3429 were:

1. Full compliance with Federal Communications Commission (FCC) Rules and Regulations.
2. A preliminary frequency reuse plan to determine the adequacy of radio spectrum currently licensed by the State.
3. Compliance with the forthcoming FCC narrowbanding milestone dates.
4. Full features and functions as described by APCO Project 25 and published in EIA/TIA 102 documents.
5. A centralized network monitoring, diagnostics, and control system.
6. Mobile data capability.
7. A Telecommunication Backbone Network (TBN) that provides connectivity between radio frequency (RF) sites, wide area controller locations, and wireline dispatch points.
8. Modular expandability to accommodate user population growth.
9. Heavy in-building coverage (95%) in the state capitol complex area.

10. Digital audio quality of DAQ 3.4 (DAQ 3.4 is defined as public-safety grade).
11. 150% future growth of subscribers.
12. A grade of service of 5%.
13. Support a minimum of 64,000 unique subscriber ID's and 16,000 talkgroups.
14. Redundant wide area control systems.
15. Uninterruptible power supplies and/or battery backup for all control, trunking, and telecommunication backbone equipment.
16. Three sites on wheels equipped with portable tower, microwave link, and power system.

The RFP also included four mandatory requirements:

1. 97% Area Coverage Reliability (ACR)

The State requires radio coverage of 97% of the total landmass of the state in all weather conditions.

2. 97% Area Coverage Reliability at specific coverage test locations as specified by the State

To ensure that the 3% of area coverage falling below the mandatory requirement of 97% area coverage does not occur in critical locations, the State provided the vendor with a list of specific locations that must pass the 97% ACR in field tests.

3. Statewide seamless roaming users

Seamless roaming is an automatic feature requiring no operator intervention of any kind. Radio units authorized on the system can travel anywhere in the state and communicate with their assigned talkgroup(s).

4. Alternate routing between wide area controller sites and backbone transport sites

The backbone transport system specified by the State consists of a private microwave system. A wide area controller consists of wide area networking and routing equipment which communicates with each of the tower sites. Each wide area controller will control a significant portion of the MSWIN. Should the microwave system fail in such a way as to isolate a wide area controller,

that portion of the MSWIN would be unable to communicate with the rest of the system. The mandatory requirement of alternate routing means there must be two backbone paths or routes to each wide area controller.

3.3 RFP 3429 Award to Motorola

On November 2, 2006, both the WCC and the ITS Board approved the selection of Motorola, Inc. as the lowest and best vendor responding to RFP 3429, to provide a turnkey statewide wireless voice and data capable infrastructure system, at a total 15-year life cycle cost of \$220,835,956.76.

3.4 Summary of Motorola's Proposal

Motorola proposed a 700 MHz trunked Project 25 compliant wireless digital communication solution for MSWIN. This platform employs IP WAN system architecture. The solution offered provides the State of Mississippi highly reliable, interoperable, and seamless voice and data communications across the entire state. In the proposed solution, Motorola met or exceeded the requirements in the request for proposals for radio frequency coverage, Project 25 functions and features, FCC mandated narrowbanding, redundancy, interoperability, maintenance and operations, and centralized network monitoring.

Motorola has partnered with the following companies on the MSWIN project as subcontractors:

- Harris MCD – Digital microwave system.
- MBI Systems – RF coverage design, building systems design, installation, optimization.
- Pyramid Network Services – Site acquisition, site architecture, construction management.
- Oldcastle Communications – Equipment shelters.
- Browns Communications – Equipment installation.

The MSWIN Motorola Project Team is directed by a Jackson-based Project Management Professional who is competent and experienced on projects similar in size and complexity to the MSWIN network. Motorola's Project Director is supported by a team of qualified individuals. Professional references for proposed key project team members were checked and all are capable in their assigned disciplines and have excellent experience.

The Motorola MSWIN solution consists of three interconnected regional

subsystems that operate as a seamless statewide network. Regional control center master sites are located in Hattiesburg, Jackson, and Batesville. These three regional subsystems are connected together to operate as one network but have the capability to operate independently. In addition to this system architecture, Motorola included a master site on wheels that can be used as a fully functional backup to any one of the three regional control center master sites. This provides a rapidly deployable element that has the same functionality and redundancy as a permanent regional control center master site and will enhance disaster recovery efforts and ensure continuity of operations for the MSWIN.

Each regional subsystem of the MSWIN contains a primary control point and all network elements for controlling and processing voice/data messages. Motorola's regional wide area controller protection scheme consists of collocated redundant wide area controllers. The on-line controller's operation is monitored by the backup unit. If a failure occurs, the backup unit takes over control of that portion of the system.

Each regional subsystem includes a network management system collocated with the regional control center master site. A centralized network monitoring system for the entire network is located in Jackson at the ITS facility as specified in the request for proposals.

The telecommunications backbone portion of Motorola's proposed solution is a multi-loop configured monitored hot-standby microwave radio system manufactured by Harris MCD. The proposed network meets the alternate routing requirements of the state and links the remote radio repeater tower sites, regional control center master sites, and dispatch locations together.

Motorola's solution includes 135 trunked radio repeater tower sites selected from over 700 surveyed candidate sites and meets the state's 97% area coverage reliability requirements. An additional 12 towers are proposed to support dispatch centers. Each tower site will be equipped with an equipment shelter, emergency power system, network equipment and redundant site controllers. The total 147 sites consist of the following:

- 28 existing state/local towers
- 60 leased towers
- 59 new towers

In accordance with the State's requirements, Motorola will provide three radio repeater sites on wheels that can be used to restore the wide area functionality of the system infrastructure anywhere in the state when it is damaged or

destroyed. These transportable sites have the same functionality as a permanent radio repeater site.

Dispatch consoles offered by Motorola are IP based and distributed among the thirteen dispatch centers outlined in the request for proposals. Dispatch centers are equipped to backup other dispatch centers.

Motorola's proposed dual-band (700/800 MHz) portables, mobiles, control stations and vehicular repeaters are equipped with multiple modes of operation (P25 Phase 1, ASTRO® digital trunking, analog trunking, analog conventional, and P25 conventional). These subscriber units are also equipped to support a Time Division Multiple Access (TDMA) mode of operation in anticipation of the FCC's 700 MHz narrowbanding mandate. Additionally, Motorola has proposed Over The Air Re-keying (OTAR) and Over The Air Programming (OTAP).

Motorola's MSWIN solution will be deployed to operate in multiple modes - Frequency Division Multiple Access (FDMA) and TDMA. Initially, the system will be deployed in Project 25 FDMA mode. At any time between system implementation and the FCC mandated narrowbanding date of 2017, the State can activate the TDMA mode. The transition from FDMA to TDMA mode from this dual platform will be transparent to system users.

Interoperability across frequency bands, disparate systems, and existing radio systems is addressed in the Motorola solution by the following:

- Multiple mode radios (P25 Phase 1, ASTRO digital trunking, analog trunking, analog conventional and P25 conventional).
- Multi-band radios operating in 700/800 MHz.
- Level 6 interoperability as specified by Association of Public Safety Communication Officials organization.
- Immediate interoperability with 18 existing Motorola 800 MHz systems in Mississippi.
- Mutual aid 700 MHz radio channels at each radio repeater tower site as specified by the State.
- Deployment of Motorola's MOTORBRIDGE IP for connectivity to disparate system platforms.

As part of the proposed system, Motorola will provide one channel for 96 kilobits per second data in the City of Jackson area.

System monitoring and operations offered by Motorola includes an on-site Jackson based Customer Support Manager and Motorola's System Support Center located in Schaumburg, Illinois. The System Support Center will remotely monitor the MSWIN system and physical building alarms throughout the network on a 24 hour by 7 day a week basis. This will ensure a timely response to problems and immediate system restoration should a fault occur. Additionally, Jackson-based dedicated system technologists are offered along with the support of 16 Mississippi locally owned authorized Motorola services shops. These entities will provide routine and preventive maintenance, restoration services and repairs/replacements during warranty and post warranty periods.

3.5 Summary of Project Implementation Progress to Date

The State executed a contract with Motorola on June 29, 2007.

The WCC is recruiting and hiring administrative and technical staff for the State MSWIN project team. The staff currently is comprised of Bill Roach, (WCC Interim Executive Officer), Bill Buffington (MSWIN Technical Director), Lana Nicks (WCC Administrative Assistant), Edward Davis (Field Support), and Tamra Grimes (MSWIN Grant Administrator).

Site procurement negotiations are in progress. The State decided to embark on site acquisitions for all three regions of implementation at the beginning of the project to avoid any potential delays being caused by site acquisition problems.

The Rapid Deployment Phase on the Coastal area is complete. This includes deployment of the Master Site on Wheels, the three RF Sites on Wheels, and MOTOBRIDGE interoperable switching equipment.

Phase 1 was subdivided into two sub phases to accelerate build out in the coastal area. Phase 1A, an eighteen site system, is scheduled to be operational by February 3, 2009. Phase 1B, a twenty-six site system which will complete the implementation in the southern third of the state is currently in construction and is scheduled to be operational by June 30, 2009.

Site Due Diligence (leasing, zoning, permitting, FAA approval, National Environmental Protection Act (NEPA) assessment, etc.) is in progress for the 48 sites in Phase 2, the central part of the state.

Site acquisition efforts are underway for the 47 sites in Phase 3. Due diligence will proceed on these sites once options are obtained.

4. Procurement Project Schedule

Task	Date
First Advertisement Date for RFP	1/13/09
Second Advertisement Date for RFP	1/20/09
Vendor Conference	2:00 p.m. Central Standard Time on 1/28/09
Deadline for Vendor's Written Questions	3:00 p.m. Central Standard Time on 2/02/09
Deadline for Questions Answered and Posted to ITS Web Site	2/06/09
Open Proposals	3:00 p.m. Central Standard Time on 2/20/09
Evaluation of Proposals	2/20/09 – 3/11/09
ITS Board Presentation	3/19/09
Contract Negotiation	3/20/09 – 4/17/09
Proposed Project Implementation Start-up	4/20/09

5. Statements of Understanding

- 5.1 ITS reserves the right to award this project to one (1) or more Vendors.
- 5.2 The anticipated start date is April 20, 2009. The State will notify the awarded Vendor(s) of the actual start date upon completion of the evaluation and approval process.
- 5.3 The awarded vendor, as well as each individual assigned to the project, will be required to follow all WCC, ITS, and State procedures and standards for work. Additional information can be found at the following website links:

WCC home page: <http://wcc.ms.gov/mwcc/wireless.nsf/>

ITS Procurement Handbook:
<http://dsitspe01.its.ms.gov/its/procman.nsf/TOC4?OpenViewAwarded>
- 5.4 Vendor(s) must be willing to work with WCC staff, Motorola, Inc., its subcontractors, and other Vendors selected as a result of this or future RFPs issued for services required to implement the MSWIN system. WCC intends to be fully involved in all aspects of the MSWIN project and will have full time staff involved as members of the project team.
- 5.5 The current MSWIN project plan indicates completion of Phase II tower sites by January 2010. Phase III sites are scheduled to be completed by September

2010. Vendor must complete construction of each site and notify the WCC of FAA 7460-2 filing within 45 days of presentation of the final “site lock documentation.”

6. **Certificate of Responsibility**

6.1 Vendor must include a current and valid Certificate of Responsibility as described below in response to this Request for Proposal.

6.2 The Mississippi Board of Contractors requires a Certificate of Responsibility for certain levels of public projects. As information, a public project is defined as, “Any project for erection, building, construction, reconstruction, repair, maintenance, or related work which is funded in whole or in part with public funds.”

6.3 The following classifications of Certificates of Responsibility have been stipulated by the Mississippi Board of Contractors as acceptable for the work requested in RFP 3584. Only these Certificates of Responsibility are acceptable.

6.3.1 Cable Installation

6.3.2 Cable Systems

6.3.3 Communication Cabling

6.3.4 Communication Systems

6.3.5 Electrical Work

6.3.6 Towers

6.3.7 Telecommunications

6.4 If your classification does not match a certificate listed above, you must obtain acceptance in writing from the Mississippi Board of Contractors stating that your classification is adequate and appropriate for tower construction projects. Contact information for the Mississippi Board of Contractors is as follows:

Primary Contact: Commercial Department

Telephone: (601) 354-6161 or 1-800-880-6161

Fax: (601) 354-6715

Mailing Address: P. O. Box 320279; Jackson, MS 39232

Physical Address: 215 Woodline Dr; Suite B; Jackson, MS 39232

7. **Qualifications of Vendor**

- 7.1 The Vendor must provide a description of his/her organization with sufficient information to substantiate proven experience in the services being proposed. Information to be provided includes but is not limited to:
- 7.1.1 Disclosure of any company restructurings, mergers, acquisitions, and name changes over the past 3 years that have impacted any services the Vendor has included in this proposal;
 - 7.1.2 The number of years the Vendor has been in the business providing procurement, engineering, construction, leasing, maintenance, and contract management services for wireless communications sites and facilities;
 - 7.1.3 The number of clients for whom the Vendor is currently providing comparable services;
 - 7.1.4 The organization's size (e.g., employees, offices, locations) and structure (e.g., state, national, or international organization);
 - 7.1.5 Whether the Vendor is based locally, regionally, nationally, or internationally as well as its relationship to any parent firms, sister firms, or subsidiaries.
 - 7.1.6 A copy of the corporation's most recent annual report, including consolidated balance sheets and related statements of income, stockholders' or partners' equity and changes in financial position, for each of the three fiscal years preceding the end of the most recent fiscal year. The financial information listed above should be compiled, reviewed, and audited by a Certified Public Accountant.
- 7.2 The Vendor must have experience with large scale construction projects (50+ sites) in the communication tower construction and leasing industry. .
- 7.2.1 Vendor must detail this experience.
- 7.3 The Vendor must have experience in the concurrent construction of at least ten sites.
- 7.3.1 Vendor must detail this experience.
- 7.4 The Vendor must provide information regarding its plan for project financing. The Vendor may be required to disclose source(s) of capital, financing, partnerships, or business relationships which it plans to utilize in the execution of this contract.

- 7.5 In Section IX, the Vendor must provide information on all subcontractors the Vendor proposes to use on this project. The Vendor must affirm that it has used each subcontractor on previous projects for the same work proposed on this project.
- 7.6 The Vendor must indicate the tower manufacturer it will primarily use for this project.
- 7.7 The Vendor must propose appropriate quantity and quality of staff to ensure successful completion of this project and must provide details supporting the number of staff proposed.
- 7.8 The Vendor's proposal must contain an organizational chart identifying all individuals proposed by name, their assigned roles, and the chain of command inside the Vendor's organization for the proposed project team.
- 7.9 The Vendor must describe the issue resolution and escalation process that will be used within the Vendor's organization to resolve any problems or issues that may arise during the course of the project.

8. Scope of Work

- 8.1 The State of Mississippi is seeking qualified vendors who have the expertise to procure, design, furnish, and install build-to-suit tower sites for purchase by or long term leases to the State of Mississippi for the MSWIN project as detailed in this section. Vendor must contract to build approximately 57 towers according to the specifications and timeline described in this RFP.
- 8.2 In general, the scope of work for this project includes the following elements to support the complete implementation of Phases 2 and 3 of the MSWIN project:
 - 8.2.1 Site Acquisition (by assignment of ground lease)
 - 8.2.2 Site Design, Development, and Construction
 - 8.2.3 Foundation Design and Construction
 - 8.2.4 Tower Design and Construction
 - 8.2.5 Preparation and Execution of Lease Agreements with the State
 - 8.2.6 Any Required Zoning and Permitting

9. Site Selection and Assessment

- 9.1 The State and Motorola have selected all sites for MSWIN Phase 2 and are selecting sites for Phase 3. The site and locations are shown in Table 8-1 below. The State and Motorola have selected these sites for purpose of meeting the MSWIN coverage and capacity requirements in consideration of location, suitability for microwave backbone interconnection, construction of towers and communications related facilities, and local and state regulations.

Table 8-1						
County	Phase	Sites		County	Phase	Sites
Calhoun County	2	1		Alcorn County	3	1
Chickasaw County	2	1		Attala County	3	1
Choctaw County	2	2		Benton County	3	2
Claiborne County	2	0		Bolivar County	3	0
Clarke County	2	2		Carroll County	3	2
Clay County	2	1		Coahoma County	3	0
Copiah County	2	1		DeSoto County	3	1
Hinds County	2	0		Grenada County	3	2
Issaquena County	2	0		Holmes County	3	1
Jasper County	2	2		Humphreys County	3	0
Kemper County	2	0		Itawamba County	3	1
Lauderdale County	2	2		Lafayette County	3	2
Leake County	2	1		Lee County	3	1
Lowndes County	2	2		Leflore County	3	1
Madison County	2	2		Marshall County	3	1
Monroe County	2	1		Montgomery	3	1

			County		
Neshoba County	2	0	Panola County	3	1
Newton County	2	1	Pontotoc County	3	2
Noxubee County	2	0	Prentiss County	3	0
Oktibbeha County	2	0	Quitman County	3	0
Rankin County	2	2	Sunflower County	3	1
Scott County	2	2	Tallahatchie County	3	1
Sharkey County	2	1	Tate County	3	2
Simpson County	2	2	Tippah County	3	1
Smith County	2	1	Tishomingo County	3	1
Warren County	2	0	Tunica County	3	0
Webster County	2	1	Union County	3	0
Winston County	2	1	Washington County	3	0
Yazoo County	2	1	Yalobusha County	3	1

9.2 As part of the assessment of the selected sites, the State and Motorola have confirmed the viability of each site and will deliver to the awarded Vendor a comprehensive “Site Lock Milestone” document that will include the following:

9.2.1 Executed Purchase or Lease Option

9.2.2 NEPA Assessment/Environmental Site Assessment (ESA)

9.2.3 Geotechnical Investigation and Report

9.2.4 Topographic and Boundary Survey

9.2.5 Microwave Field Path Studies

9.2.6 Coverage Predictions

9.2.7 Construction Drawings – Site Layout, Shelter, Generator, and
Liquified Propane Gas (LPG) Tank Foundations and Underground
Utilities

9.2.8 Regulatory Approvals – FAA and FCC

10. Site Acquisition

- 10.1 The Vendor shall accept the State's transfer of an option to purchase or lease sites and complete the acquisition with the property owner.

11. Site Work

- 11.1 The Vendor shall perform all clearing, grading, and excavation required for the tower, equipment shelter, access road, security fencing, and utility service. When site work is completed, the sites must be left in a satisfactory usable condition as determined by the State.
- 11.2 The tower site and access road shall be cleared. Clearing shall consist of removal of all trees, bushes, and weeds. Guy lanes shall be cleared to a minimum width of fifty (50') feet. Spoil materials shall be removed from the site and properly disposed of in a licensed landfill or otherwise as required by law.
- 11.3 Earthwork shall be performed in a manner consistent with applicable flood control and sediment control regulations.
- 11.4 All cleared debris and rubbish shall be immediately removed from the site. Deposit of debris and rubbish in the State's receptacles is prohibited.
- 11.5 Provide adequate erosion controls, drainage, and drainage structures to include culverts such that water shall not accumulate in such a manner as to prohibit or restrict access to the Site or to cause damage to installed equipment.
- 11.6 All disturbed areas shall be graded to have finished slopes of less than a 2 horizontal to 1 vertical ratio.
- 11.7 Topsoil is to be stockpiled and redistributed to disturbed areas not receiving aggregate surfacing.
- 11.8 All slopes and disturbed areas not receiving aggregate surfacing are to be prepared and seeded for erosion protection.

- 11.9 No buildings or other structures shall be located within a defined utility service or other right of way.
- 11.10 Furnish and apply Amoco BP 2006 woven fabric underlayment under all aggregate surfacing.
- 11.11 Furnish and apply aggregate surface course over the fence area including one (1') foot outside the fence perimeter, guy anchor fencing, vehicular turn around and parking area. Aggregate shall be minimum 4" depth ¾" crushed aggregate or Size 610 crushed concrete stone.
- 11.12 **Finish Grading**
- 11.12.1 The Vendor shall perform finish grading after the work in the area is complete and just prior to placing gravel surfacing. Fill, if necessary, shall be brought to finished grades indicated and shall be graded to drain water away from structures. Grading shall provide an even, smooth surface free from cellulose materials, large rocks, and other deleterious materials.
- 11.13 **Material**
- 11.13.1 The Vendor shall furnish and install suitable materials for fill and backfill as defined in "Uniform Soil Classification System" as GW, GP, SW, SP, or SM, and which is free from cellulose materials and debris.
- 11.14 **Excavation**
- 11.14.1 The Vendor shall carry excavation to depths and contours indicated or necessary. Excavations shall be kept free from water while work therein is in progress. Excavated materials of suitable quality as defined hereinbefore may be used for fill or backfill. Unsuitable and surplus excavated material shall be removed from the State's property and legally disposed of by the Vendor.
- 11.14.2 Fill and backfill shall be placed in layers not exceeding six (6") inches in depth and each layer compacted. The top twelve (12") inches of fill and backfill shall be compacted to not less than ninety-five percent (95%) maximum density in accordance with ASTM D1557.
- 11.15 **Fencing**
- 11.15.1 The Vendor shall furnish and install new perimeter security fence to enclose the base of the tower, equipment shelter, generator, LPG

tank and any other associated equipment with a clearance between the fence and enclosed object of at least five (5') feet.

- 11.15.2 For guyed towers, all guy anchors must have a perimeter security fence installed with a minimum clearance between the fence and guy anchor or guyed wire of at least three (3') feet. The Vendor shall provide a walk through gate at each guy anchor location to allow access to guy anchor. The walk through gate shall be grounded to the ground system. The guy anchor perimeter fencing shall be connected to the site ground system.
- 11.15.3 The Vendor shall furnish and install, including the guy anchor locations and perimeter security fence, black plastic weed barrier covered with four (4") inches of crushed stone.
- 11.15.4 New fencing material for the sites shall be Cyclone Type 1 fence and have the following characteristics:
 - 11.15.4.1 Fabric Height: 7' (excluding barbed wire).
 - 11.15.4.2 Barbed Wire: 3-strands/class 3 galvanized with extension arms extending upward and outward at a 45 degree angle.
 - 11.15.4.3 Fabric: 2" mesh/11 gauge (minimum) with zinc coating.
 - 11.15.4.4 Line Posts: at a minimum shall be nominal 2" pipe (2-3/8" O.D.), 3.65 # per foot.
 - 11.15.4.5 Railings: top and bottom rails, at a minimum, shall be nominal 1-1/4" pipe (1-5/8" O.D.), 2.27 # per foot.
 - 11.15.4.6 Terminal Posts: end, corner and gate posts, at a minimum, shall be nominal 2-1/2" pipe (2-7/8" O.D.), 5.79 # per foot.
 - 11.15.4.7 Gate: Gate with positive type latching devices with provisions for padlocking. Vendor must provide locks keyed the same at all gate locations throughout the state
- 11.15.5 All posts, rails, and appurtenances shall be hot-dipped zinc coated steel. Pipe posts shall have caps which exclude moisture.
- 11.15.6 End, corner, pull and gate posts are to be braced with the same material as top rail. All posts shall be set in concrete foundation. Line posts shall be evenly spaced ten (10') feet or less apart.

- 11.15.7 Fence is to be installed in a professional manner to enhance the appearance of the installation, to prevent entrance of persons and animals, and to protect equipment. It shall be the responsibility of the Vendor to ascertain that the grade at the fence line is correct and final before the fence is installed. All posts shall be aligned and installed plumb. Installation shall be by experienced fence erectors.
- 11.15.8 Warning signs using the international symbol of electrical shock hazard shall be furnished and installed on the exterior of all sides of the main perimeter fence and the gate. Additionally, signs shall be furnished and installed that state "No Trespassing" in English. The signs shall be impervious to weathering, and be mounted to avoid ease of removal by vandals.

11.16 Vehicular Barricade Gate

- 11.16.1 The Vendor shall furnish and install a vehicle barricade gate at the edge of the public ingress road which serves the site. A "No Trespassing" sign shall be furnished and installed on the exterior of the barricade. The gate shall have a means of locking the gate to a post with a padlock. All posts shall be filled with concrete and include a cap to exclude moisture.

11.17 Access Road

- 11.17.1 The Vendor shall furnish and install an access road from the public ingress road to the site security fence.
 - 11.17.2 The access road shall have the following characteristics:
 - 11.17.2.1 Minimum twelve (12') feet in width.
 - 11.17.2.2 Access road must provide access and egress by vehicle to the site security fence in all weather conditions.
 - 11.17.2.3 Installation of necessary culverts/ditches on both sides of access road for erosion protection. Seed all areas requiring erosion protection.
 - 11.17.2.4 Installation of a parking and turnaround area located adjacent to the gate at the perimeter site security fence.

11.18 Utility Services

- 11.18.1 The Vendor shall furnish and install properly sized secondary underground AC service feed and communications facilities from the service providers' point(s) of demarcation to each site. The Vendor shall furnish all required materials and labor and coordinate the utility connections for a complete installation at each site.

11.19 Site Grounding System

- 11.19.1 The Vendor shall furnish and install a site grounding system for each site. The site grounding system shall generally consist of fence/perimeter grounding, tower base and guy anchor grounding, shelter grounding, and connections to all site elements to include generator and fuel tank. All connections shall be exothermic type welds and all materials shall be copper or copper-clad unless otherwise specified. The location of grounding interface points or 'stub-ups' will be identified on State provided drawings for each site. The State will be responsible for bonding to the interface points.
- 11.19.2 All elements of the grounding and lightning systems for each site shall achieve a resistance to earth of 5 Ohms or less. The Vendor shall install any additional grounding to meet the 5 Ohms (or less) requirement and install the necessary ground test wells to perform the ground testing for the site. All site grounding systems shall meet or exceed the Motorola R-56 specifications and should a discrepancy arise between specifications provided herein and the Motorola R-56 specification, the Motorola R-56 specification shall rule.

12. State's Compound Development

- 12.1 The Vendor must provide separate pricing in Section VIII for development of the State's compound area at each site. The State will be utilizing four basic compound designs: 1) Guyed tower with 10x12 Shelter, 2) guyed tower with 12x16 Shelter, 3) Self-Support with 10x12 Shelter , and 4) Self-Support with 12x16 Shelter. Refer to Exhibit C: Site Drawings (separately attached Exhibit C.pdf).Compounds will be developed according to the specifications. Motorola will be responsible for connecting equipment shelters, generators, fuel tanks and associated electrical and ground elements to the site grounding system.
- 12.2 Communication shelter floors, associated emergency generation equipment, and fuel tanks shall be installed a minimum of four (4') feet above the five hundred (500) year flood plain.

12.3 Foundations

- 12.3.1 The Vendor shall furnish all material, labor, equipment, and appliances, and perform all operations in connection with the installation of concrete work, complete for the construction of foundations for towers, equipment shelters, LPG tanks, generators, and fencing as shown on the drawings.
- 12.3.2 Foundations for the shelter, tower, and generator shall be installed such that the finished surfaces are a minimum of six (6") inches above finished grade level.
- 12.3.3 It is the responsibility of the Vendor to establish all lines, levels, grades, benchmarks, survey reference points, and measurements incidental to the accurate layout of the work of this section.
- 12.3.4 Foundation construction shall include all related and incidental operations required to complete the excavating, filling, and backfilling related to the construction of the foundations as specified herein.
- 12.3.5 The Vendor shall comply with ACI 318-05 for all foundations.

12.4 Materials

- 12.4.1 Portland Cement shall conform to ASTM Standard Specifications for Portland Cement C-150, Type I or Type III.
- 12.4.2 Aggregates for concrete shall conform to ASTM Standard Specifications for Concrete Aggregates, C-33.
- 12.4.3 All concrete shall have a minimum of 28 day compressive strength of 3,000 psi.
- 12.4.4 Proportions of cement, aggregate, and water to attain required plasticity and compressive strength in pounds per square inch at 28 days shall be in accordance with ACI 613 "Recommended Practice for Selecting Proportions for Concrete." The Vendor shall furnish the mix design for the types and strengths of concrete indicated.
- 12.4.5 Concrete shall be workable such that it can be handled and placed around reinforcing steel and inserts without segregation, without additional water and fine material rising to surface.
- 12.4.6 Calcium Chloride or admixtures containing chlorides shall not be used.

12.5 Construction of Forms

- 12.5.1 The Vendor shall refer to ACI 318-05 (Chapter 6) for requirements of concrete form construction.
- 12.5.2 Forms shall be treated with lacquer, form oil, or other acceptable material to prevent bonding to concrete. Material shall not stain, cause injury to exposed concrete surfaces, or affect bonding of specified surface coatings.

12.6 Dewatering

- 12.6.1 Dewatering by well points shall be required for foundation construction at sites which require dewatering. The dewatered level shall be maintained 24 hours per day, 7 days per week until all backfill has been completed.

12.7 Fabrication of Reinforcement

- 12.7.1 Fabrication of steel reinforcement shall comply with ASTM A615, Grade 60 and be in accordance with the details shown on the approved design drawings.
- 12.7.2 Bending and placing of reinforcing shall comply with the requirements of ACI 318-05 (Chapter 7).
- 12.7.3 Tack welding is permitted only on the top and bottom ties of drilled pier foundations. Heating of steel reinforcement will not be permitted.

12.8 Placing Reinforcement

- 12.8.1 Concrete Reinforcing shall be placed according to design drawings.
- 12.8.2 Minimum concrete cover shall comply with ACI 318-05, Section 7.7. Concrete shall be consolidated per Section 5.10.8 of the ACI 318-05 as recommended by ACI Committee 309 "Guide for Consolidation of Concrete".

12.9 Mixing Concrete

- 12.9.1 Concrete mixing shall comply with ACI 318-05 (Chapter 8).

12.10 Concrete Control Test

- 12.10.1 The Evaluation and Acceptance for Concrete shall comply with Chapter 5 of the ACI 318-05 code. When such tests show concrete is not adequate in strength, all such concrete shall be removed and replaced.

12.11 Placing Concrete

- 12.11.1 Concrete shall be mixed and placed only when the temperature is at least 40°F. and rising. When temperature is 90°F. or above, or is likely to rise above 90°F. within the 24-hour period after concrete placement, follow recommendations of ACI 305 "Hot Weather Concreting." Alternatively, when the temperature of the surrounding air is below 40°F, concrete shall have a temperature between 60°F and 90°F and the Vendor shall follow recommendations of ACI 306 "Cold Weather Concreting."
- 12.11.2 Design and Construction of Drilled Pier foundations shall comply with the recommendations of ACI Committee 336 "Design and Construction of Drilled Piers."
- 12.11.3 Concrete for drilled pier foundations shall be placed with a tremie having a diameter of at least eight times the maximum size of the aggregate. Concrete shall be placed with the aid of mechanical vibration equipment applied directly to the concrete for the top ten (10') feet. The intensity of vibration shall be sufficient to cause flow or settlement of concrete in place without causing segregation of the mix.
- 12.11.4 Concrete in each foundation shall be placed continuously to avoid cold joints. If cold joints occur, laitance shall be removed from the hardened surface; the surface shall also be roughed and "slushed" with a 1:1 cement grout before subsequent casting.

12.12 Top Surface

- 12.12.1 Produce finish by tamping concrete to force aggregate away from surface, then screed at proper level. Surface is then floated. Edges of exposed concrete shall be chamfered at a 45° angle.

13. Towers

- 13.1 The Vendor shall design, furnish, and install new towers at all sites awarded to Vendor by the State. Structures shall be designed, fabricated, equipped, and installed in accordance with these specifications for steel towers.

- 13.2 The structures shall, except for antenna pipe mounts, be fabricated of angular or solid round members. All structural steel is to be galvanized after fabrication in accordance ASTM A123. All hardware is to be galvanized after fabrication in accordance with ASTM A153.

13.3 **Regulatory Compliance**

- 13.3.1 The Vendor shall comply with all Federal Communications Commission (FCC) and Federal Aviation Administration (FAA) regulations to include, but not limited to, construction notifications, certified surveys, lighting (and marking), and signage.

13.4 **Design Criteria**

- 13.4.1 The Vendor shall design the tower and foundation to meet the requirements of the Electronics Industry Alliance/Telecommunications Industry Association, EIA/TIA-222-G, Class III Standard.

- 13.4.2 The design shall be based upon the maximum of the following loading conditions from the EIA/TIA-222-G, Class III Standard.

13.4.2.1 Maximum loading conditions per county for wind, ice, wind and ice, and earthquake/seismic loads as provided in Annex B and Appendix 1.

13.4.2.2 Exposure Category C.

13.4.2.3 Topography – Categories 1-5, based upon site topography as defined in the Standard.

13.4.2.4 Class III, Emergency Communication Structure Classification.

13.4.2.5 No shielding or bundling of antenna transmission lines, antenna mounts, or antenna mounting frames.

- 13.4.3 The Vendor shall use the following initial loading criteria and the growth requirements detailed below in developing the tower designs for each “maximum antenna height” tower configuration.

The vendor shall design ten (10) self-supporting tower configurations and ten (10) guyed tower configurations for maximum antenna heights ranging from 150 ft. AGL to 600 ft. AGL in 50ft. increments.

Initial Antenna Loading Configuration (150 ft. Maximum Antenna Height)				
Antenna Type	Antenna Height (ft. - AGL)	Frequency Band	Antenna Azimuth	Waveguide/ Line Type
Mobile Transmit	150	700-800 MHz	N/A	1-5/8" Coax.
Mobile Receive	120	700-800 MHz	N/A	7/8" Coax.
8 ft. Microwave	145	6 GHz	0	EW-63
8 ft. Microwave	105	6 GHz	0	EW-63
6 ft. Microwave	140	6 GHz	120	EW-63
6 ft. Microwave	100	6 GHz	120	EW-63
4 ft. Microwave	135	6 GHz	240	EW-63
4 ft. Microwave	95	6 GHz	240	EW-63

Initial Antenna Loading Configuration (200 ft. Maximum Antenna Height)				
Antenna Type	Antenna Height (ft. - AGL)	Frequency Band	Antenna Azimuth	Waveguide/ Line Type
Mobile Transmit	200	700-800 MHz	N/A	1-5/8 Coax.
Mobile Receive	170	700-800 MHz	N/A	1-5/8 Coax.
8 ft. Microwave	195	6 GHz	0	EW-63
8 ft. Microwave	155	6 GHz	0	EW-63
6 ft. Microwave	190	6 GHz	120	EW-63
6 ft. Microwave	150	6 GHz	120	EW-63
4 ft. Microwave	185	6 GHz	240	EW-63
4 ft. Microwave	145	6 GHz	240	EW-63

Initial Antenna Loading Configuration (250 ft. Maximum Antenna Height)				
Antenna Type	Antenna Height (ft. - AGL)	Frequency Band	Antenna Azimuth	Waveguide/ Line Type
Mobile Transmit	250	700-800 MHz	N/A	1-5/8 Coax.
Mobile Receive	220	700-800 MHz	N/A	1-5/8 Coax.
8 ft. Microwave	245	6 GHz	0	EW-63
8 ft. Microwave	205	6 GHz	0	EW-63

6 ft. Microwave	240	6 GHz	120	EW-63
6 ft. Microwave	200	6 GHz	120	EW-63
4 ft. Microwave	235	6 GHz	240	EW-63
4 ft. Microwave	195	6 GHz	240	EW-63

Initial Antenna Loading Configuration (300 ft. Maximum Antenna Height)				
Antenna Type	Antenna Height (ft. - AGL)	Frequency Band	Antenna Azimuth	Waveguide/ Line Type
Mobile Transmit	300	700-800 MHz	N/A	1-5/8 Coax.
Mobile Receive	270	700-800 MHz	N/A	1-5/8 Coax.
8 ft. Microwave	295	6 GHz	0	EW-63
8 ft. Microwave	255	6 GHz	0	EW-63
6 ft. Microwave	290	6 GHz	120	EW-63
6 ft. Microwave	250	6 GHz	120	EW-63
4 ft. Microwave	285	6 GHz	240	EW-63
4 ft. Microwave	245	6 GHz	240	EW-63

Initial Antenna Loading Configuration (350 ft. Maximum Antenna Height)				
Antenna Type	Antenna Height (ft. - AGL)	Frequency Band	Antenna Azimuth	Waveguide/ Line Type
Mobile Transmit	350	700-800 MHz	N/A	1-5/8 Coax.
Mobile Receive	320	700-800 MHz	N/A	1-5/8 Coax.
8 ft. Microwave	345	6 GHz	0	EW-63
8 ft. Microwave	305	6 GHz	0	EW-63
6 ft. Microwave	340	6 GHz	120	EW-63
6 ft. Microwave	300	6 GHz	120	EW-63
4 ft. Microwave	335	6 GHz	240	EW-63
4 ft. Microwave	295	6 GHz	240	EW-63

13.4.3.1 For “Maximum Antenna Height” configurations 400 – 600 ft., the Mobile Transmit and Mobile Receive antennas heights shall be increased in 50 ft. increments. All microwave antennas shall be at the heights and configuration as shown in the “350 ft. Maximum

Antenna Height” table (i.e. no incremental height changes).

- 13.4.4 The tower and foundation shall be designed for all equipment, appurtenances, ancillary equipment, initial antenna loading plus a minimum of 100% future growth in antenna system/dish loading based on initial antenna loading.

13.5 Tower Foundations

- 13.5.1 The Vendor shall furnish all materials, labor, equipment, and appurtenances.

13.6 Waveguide Ladder

- 13.6.1 The Vendor shall equip each tower with a waveguide ladder with supports spaced on 4'-0" intervals to support all initial antenna transmission lines plus 100% additional capacity for future growth. The waveguide ladder shall be hot dip galvanized after fabrication in accordance with ASTM A123. The ladder shall have sufficient stiffness to prevent damage during shipment and shall be erected in a straight and undamaged condition. The waveguide ladder may be designed integrally with the structure, but must be arranged so that it will not obstruct tower climbing when fully loaded.

13.7 Waveguide Bridge

- 13.7.1 The Vendor shall furnish and install a waveguide bridge between each tower and equipment shelter to support all initial antenna transmission lines plus 100% additional capacity for future growth. The following criteria shall govern the design of the waveguide bridge:
 - 13.7.1.1 Structurally sufficient to meet wind loads, live loads and dead loads.
 - 13.7.1.2 Free standing (i.e. not attached to the shelter or tower).
 - 13.7.1.3 Minimum width of two (2') feet.
 - 13.7.1.4 Length/height as required.
 - 13.7.1.5 Bridge/ice shield material shall be fabricated from galvanized bar grating or approved equivalent.
 - 13.7.1.6 All components of the waveguide bridge shall be hot-dipped galvanized after fabrication.

13.7.1.7 Posts shall have galvanized caps and be set in concrete foundations. Each post shall be separately grounded to the site ground system with 1/0 awg stranded bare copper conductor.

13.7.1.8 Bridge shall be adjustable in height so as to allow interface with waveguide entry ports. Bridge shall be effectively grounded to the external ground bar.

13.8 Climbing Equipment

13.8.1 The Vendor shall equip each tower with a climbing ladder and safety device. The ladder may be integrated into the structural components of the tower. If the ladder is not integrated into the climbing structure, the ladders shall have a twelve (12") inches nominal rung spacing, a rung diameter of 5/8 inch, and be supported at a minimum of ten (10') foot intervals. The climbing ladder shall be hot dip galvanized after fabrication in accordance with ASTM A123. The ladder shall be supported in such a way as to provide a minimum of seven (7") inches of toe clearance between the ladder rungs and the tower structure.

13.8.2 The cable safety climb system shall meet ANSI A14.3 (Ladder Safety Requirements). The safety device shall consist of a safety sleeve traveling on a stainless steel cable secured at the top and base of the tower. All mounting hardware shall be galvanized in accordance with ASTM A153.

13.8.3 All towers shall be provided with a rest area sufficient to support an individual in a balanced position. Rest platforms shall adhere to the following:

13.8.3.1 Provided on towers greater than 200 feet in height.

13.8.3.2 Spaced at no more than a maximum of 105 feet in height.

13.8.3.3 Have minimum dimensions of 18 inches square and placed immediately adjacent to the climbing area.

13.8.3.4 Capable of supporting 350 pounds.

13.8.3.5 Climber shall have access to the rest area without disengaging the safety device.

13.9 Tower Grounding and Lightning Protection

The Vendor shall furnish and install a lightning protection and grounding system on all towers. The systems shall consist of an eight (8') foot copper-clad lightning rod installed at the top of each tower. The lightning rod shall be mounted such that it is the highest point of the tower. All connections shall be cadwelded. All grounding and fastening techniques must meet the Motorola R56 Specification.

13.9.1 All equipment mounted on the tower shall attach to the tower such that it will be effectively grounded.

13.9.2 All tower legs/base and guy anchors shall be attached to the site ground system with a #1/0 AWG stranded bare tinned copper conductor. All connections shall be cadwelded.

14. Antenna Systems Installation

14.1 At the State's option, the Vendor shall install all antennas and microwave dishes. Vendor must provide this cost in Section VIII: Cost Information Submission.

15. Contracts and Lease Agreements

15.1 In addition to signing the Build-to-Suit Tower Construction Agreement with ITS, the Vendor shall prepare a site specific tower lease agreement for each site. Vendor must also execute an assignment of either a ground lease or an option to lease that Motorola's subcontractor has executed with the land owner. Templates for these agreements can be found in Exhibit A: Standard Contracts.

16. Additional Requirements

16.1 ITS acknowledges that the specifications within this RFP are not exhaustive. Rather, they reflect the known requirements that must be met by the proposed system. Vendors must specify, here, what additional components may be needed and are proposed in order to complete each configuration.

16.2 If any component(s) is omitted from Vendor's proposal, Vendor must be willing to provide the component(s) at no additional cost.

17. Cost Proposal

17.1 Vendor must complete the Cost Information Submission in Section VIII. In developing the lease and purchase cost for towers, Vendor must include that 100% future antenna loading capacity shall be reserved for use by the State of Mississippi for a period of five (5) years. Initial lease pricing must include 50% microwave and antenna growth at no increase in lease payment. An

additional 50% growth in microwave and antenna loading must be guaranteed in the lease agreement at a set fixed price.

- 17.2 Vendor may describe any other services and associated pricing it may offer the State related to this project in Section VIII.

18. Scoring Methodology

- 18.1 ITS will use any or all of the following categories in developing a scoring mechanism for this RFP prior to receipt of proposals. All information provided by the Vendors, as well as any other information available to evaluation team, will be used to evaluate the proposals.

18.1.1 Cost

18.1.2 Technical requirements

18.1.3 Vendor qualifications

18.1.4 References

18.1.5 Value-Add

- 18.2 Each category included in the scoring mechanism is assigned a weight between one and 100. The sum of all categories, other than Value-Add, will equal 100 possible points. Value-Add is defined as product(s) or service(s), exclusive of the stated functional and technical requirements and provided to the State at no additional charge, which, in the sole judgment of the State, provide both benefit and value to the State significant enough to distinguish the proposal and merit the award of additional points. A Value-Add rating between 0 and 5 may be assigned based on the assessment of the evaluation team. These points will be added to the total score.

- 18.3 Proposals scoring less than 80% of technical requirements (exclusive of evaluation points for cost and added value) may be eliminated from further consideration.

SECTION VIII COST INFORMATION SUBMISSION

Vendors must propose a summary of all applicable project costs in the matrix that follows. The matrix must be supplemented by a cost itemization fully detailing the basis of each cost category. The level of detail must address the following elements as applicable: item, description, quantity, retail, discount, extension, and deliverable. Any cost not listed in this section may result in the Vendor providing those products or services at no charge to the State or face disqualification.

Monthly Lease Cost					
	Guyed Tower		Self Supporting Tower		
Maximum Antenna Height Configuration	Initial Loading Plus 50% Reserve	Future Loading – 100% Growth	Initial Loading Plus 50% Reserve	Future Loading – 100% Growth	Antenna and Line Installation
150'					
200'					
250'					
300'					
350'					
400'					
450'					
500'					
550'					
600'					

Tower Purchase Price		
	Guyed Tower	Self Supporting Tower
150'		
200'		
250'		
300'		
350'		
400'		
450'		
500'		
550'		
600'		

Optional State Compound Development	
Description	Price
Guyed Tower Site with 10x12 Shelter	
Guyed Tower Site with 12x16 Shelter	
Self-Supporting Tower Site with 10x12 Shelter	
Self-Supporting Tower Site with 12x16 Shelter	

Other Optional Services	
Description	Price

SECTION IX REFERENCES

Please return the following Reference Forms, and if applicable, Subcontractor Reference Forms.

1. References

- 1.1 The Vendor must provide at least three (3) references consisting of Vendor accounts that the State may contact. Required information includes name, address, telephone number, and length of time the account has been a reference. Forms for providing reference information are included on the next page. The Vendor must make arrangements in advance with the account references so that they may be contacted at the Project team's convenience without further clearance or Vendor intercession. Failure to provide this information in the manner described may subject the Vendor's proposal to being rated unfavorably relative to these criteria or disqualified altogether at the State's sole discretion.
- 1.2 References should be based on the following profiles and be able to substantiate the following information from both management and technical viewpoints:
 - 1.2.1 The reference installation must be similar in function and size to the agency/institution for which this RFP is issued;
 - 1.2.2 The reference installation product/service must be configured similarly or identically to this RFP; and
 - 1.2.3 The reference installation must have been operational for at least six (6) months.
 - 1.2.4 Additional reference requirements:
 - 1.2.4.1 There are no additional reference requirements for this RFP.

2. Subcontractors

The Vendor's proposal must identify any subcontractor that will be used and include the name of the company, telephone number, contact person, type of work subcontractor will perform, number of certified employees to perform said work, and three (3) references for whom the subcontractor has performed work that the State may contact. Forms for providing subcontractor information and references are included at the end of this section. The Vendor must note that the same requirements found in the References section apply to subcontractors.

REFERENCE FORM

Complete three (3) Reference Forms.

Contact Name:

Company Name:

Address:

Phone #:

E-Mail:

Description of product/services/project, including start and end dates:

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SUBCONTRACTOR REFERENCE FORM

Complete a separate form for each subcontractor proposed.

Contact Name:
Company name:
Address:
Phone #:
E-Mail:

Scope of services/products to be provided by subcontractor:

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Complete three (3) Reference Forms for each Subcontractor.

Contact Name:
Company name:
Address:
Phone #:
E-Mail:

Description of product/services/project, including start and end dates:

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EXHIBIT A STANDARD CONTRACTS

Properly executed contracts are a requirement of this RFP. After an award has been made, it will be necessary for the winning Vendor to execute one or more contracts with **ITS**. The inclusion of these contract templates do not preclude **ITS** from, at its sole discretion, negotiating additional terms and conditions with the selected Vendor(s) specific to the projects covered by this RFP.

In addition to signing the Build-to-Suit Tower Construction Agreement with ITS, the Vendor shall prepare a site specific tower lease agreement for each site. Vendor must also execute an assignment of either a ground lease or an option to lease that Motorola's subcontractor has executed with the land owner.

If Vendor cannot comply with any term or condition of these Standard Contracts, Vendor must list and explain each specific exception on the *Proposal Exception Summary Form* included in Section V.

**PROJECT NUMBER 37977
BUILD-TO-SUIT TOWER CONSTRUCTION AGREEMENT
BETWEEN
<COMPANY NAME>
AND
MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES
AS CONTRACTING AGENT FOR THE
MISSISSIPPI WIRELESS COMMUNICATIONS COMMISSION**

This Build-to-Suit Tower Construction Agreement (hereinafter referred to as "Agreement") is entered into by and between <Company Name>, a <state> corporation having its principal place of business at <street address> (hereinafter referred to as "Contractor"), and the Mississippi Department of Information Technology Services having its principal place of business at 301 North Lamar Street, Suite 508, Jackson, Mississippi 39201 (hereinafter referred to as "ITS"), as contracting agent for the Mississippi Wireless Communications Commission located at 412 East Woodrow Wilson, Mail Code 6601, Jackson, Mississippi 39216 (hereinafter referred to as "Customer" or "MWCC"). ITS and Customer are sometimes collectively referred to herein as "State".

WHEREAS, Customer, pursuant to Request for Proposals ("RFP") Number 3584, requested proposals for the design and construction of build-to-suit communication tower sites for long term lease to and/or purchase by the State of Mississippi for the deployment of the Mississippi Wireless Information Network (MSWIN); and

WHEREAS, Contractor was the successful respondent in an open, fair and competitive procurement process to provide the above mentioned services;

NOW THEREFORE, in consideration of the mutual understandings, promises and agreements set forth, the parties hereto agree as follows:

ARTICLE 1 PERIOD OF PERFORMANCE

1.1 Unless this Agreement is extended by mutual agreement or terminated as prescribed elsewhere herein, this Agreement shall begin on the date it is signed by all parties and shall continue in effect for sixty (60) months thereafter. At the end of the initial term, this Agreement may, upon the written agreement of the parties, be renewed for two (2) additional sixty (60) month terms. Sixty (60) days prior to the expiration of the initial term or any renewal term of this Agreement, Contractor shall notify Customer and ITS of the impending expiration and Customer shall have thirty (30) days in which to notify Contractor of its intention to either renew or cancel the Agreement.

ARTICLE 2 SCOPE OF SERVICES

2.1 Contractor shall perform all tasks to procure, design, furnish, and install “build-to-suit” communication tower sites for the deployment of the Mississippi Wireless Information Network (MSWIN), in compliance with all requirements and specifications stated in RFP No. 3584 and Contractor’s Proposal, as accepted by the State, in response thereto. Contractor shall complete construction of each site awarded herein and notify customer of FAA 7460-2 filing within 45 days of presentation of the “site lock documentation” to Contractor by Customer.

2.2 For each tower site to be leased by the State, State shall, within thirty (30) days following Contractor’s notification of FAA 7460-2 filing, execute a tower lease agreement with Contractor, containing the terms and conditions included in the tower lease agreement included in the RFP and at the applicable monthly lease cost shown in Exhibit A, which is attached hereto and incorporated herein by reference.

2.3 For each tower site to be purchased by the State, Contractor shall execute a tower purchase agreement between Contractor and Customer, with terms and conditions to be negotiated at time of purchase and at the applicable purchase price shown in Exhibit A.

ARTICLE 3 CONSIDERATION AND METHOD OF PAYMENT

As consideration for the performance of this Agreement, Customer shall pay Contractor in accordance with each tower lease agreement or tower purchase agreement executed as outlined in Article 2 above. The parties understand and agree that no payments will be made to Contractor for any tower site prior to the completion and acceptance of the site and execution of the lease or purchase agreement, as applicable.

ARTICLE 4 WARRANTIES

Contractor represents and warrants that, at the time of entering into this Agreement, it has currently in effect all necessary licenses (except FCC Licensing), certifications, approvals, insurance, bonds, permits, etc. required to properly perform the services of this Agreement. Contractor further represents and warrants that it will continue to maintain all necessary

licenses, certifications, approvals, insurance, bonds, permits, etc. required to properly perform this Agreement without reimbursement by Customer. Additionally, all of Contractor's employees or subcontractors performing services shall hold the required licenses or certification, if any, required to perform their responsibilities. Any revocation, withdrawal, or non-renewal of necessary licenses, certifications, approvals, insurance, bonds, permits, etc. required for Contractor to properly perform this Agreement shall be grounds for termination of this Agreement for default. Customer will obtain and comply with all Federal Communications Commission ("FCC") rules and regulations and authorizations required for the installation, operation and use of the System before the scheduled installation of the equipment.

Contractor represents and warrants that all work performed hereunder shall be performed by competent personnel and shall be of professional quality consistent with generally accepted industry standards for the performance of such services and shall comply in all respects with the requirements of this Agreement, the RFP, and Contractor's Proposal, as accepted by the State, in response thereto.

ARTICLE 5 EMPLOYMENT STATUS

5.1 Contractor shall, during the entire term of this Agreement, be construed to be an independent contractor. Nothing in this Agreement is intended to nor shall be construed to create an employer-employee relationship, or a joint venture relationship.

5.2 Contractor represents that it is qualified to perform the duties to be performed under this Agreement and that it has, or will secure, if needed, at its own expense, applicable personnel who shall be qualified to perform the duties required under this Agreement. Such personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of Customer.

5.3 Contractor shall pay when due, all salaries and wages of its employees and it accepts exclusive responsibility for the payment of federal income tax, state income tax, social security, unemployment compensation and any other withholdings that may be required. Neither Contractor nor employees of Contractor are entitled to state retirement or leave benefits.

5.4 It is further understood that the consideration expressed herein constitutes full and complete compensation for all services and performances hereunder, and that any sum due and payable to Contractor shall be paid as a gross sum with no withholdings or deductions being made by Customer for any purpose from said contract sum, except as permitted herein in the article titled "Termination".

ARTICLE 6 MODIFICATION OR RENEGOTIATION

This Agreement may be modified only by written agreement signed by the parties hereto, and any attempt at oral modification shall be void and of no effect. The parties agree to renegotiate the Agreement if federal and/or state revisions of any applicable laws or regulations make changes in this Agreement necessary.

ARTICLE 7 ASSIGNMENT AND SUBCONTRACTS

7.1 Neither party may assign or otherwise transfer this Agreement or its obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld. Any attempted assignment or transfer of its obligations without such consent shall be null and void. This Agreement shall be binding upon the parties' respective successors and assigns.

7.2 Contractor must obtain the written approval of Customer before subcontracting any portion of this Agreement. No such approval by Customer of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of Customer in addition to the total fixed price agreed upon in this Agreement. All subcontracts shall incorporate the terms of this Agreement and shall be subject to the terms and conditions of this Agreement and to any conditions of approval that Customer may deem necessary.

7.3 Contractor represents and warrants that any subcontract agreement Contractor enters into shall contain a provision advising the subcontractor that the subcontractor shall have no lien and no legal right to assert control over any funds held by the Customer, and that the subcontractor acknowledges that no privity of contract exists between the Customer and the subcontractor and that the Contractor is solely liable for any and all payments which may be due to the subcontractor pursuant to its subcontract agreement with the Contractor. The Contractor shall indemnify and hold harmless the State from and against any and all claims, demands, liabilities, suits, actions, damages, losses, costs and expenses of every kind and nature whatsoever arising as a result of Contractor's failure to pay any and all amounts due by Contractor to any subcontractor, materialman, laborer or the like.

7.4 All subcontractors shall be bound by any negotiation, arbitration, appeal, adjudication or settlement of any dispute between the Contractor and the Customer, where such dispute affects the subcontract.

ARTICLE 8 AVAILABILITY OF FUNDS

It is expressly understood and agreed that the obligation of Customer to proceed under this Agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds for the performances required under this Agreement. If the funds anticipated for the fulfillment of this Agreement are not forthcoming, or are insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds, or if there is a discontinuance or material alteration of the program under which funds were available to Customer for the payments or performance due under this Agreement, Customer shall have the right to immediately terminate this Agreement, without damage, penalty, cost or expense to Customer of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination. Customer shall have the sole right to determine whether funds are available for the payments or performances due under this Agreement.

ARTICLE 9 DEFAULT

The occurrence of any of the following shall constitute a default hereunder: (a) Contractor fails to pay monthly commissions as required in this Agreement; (b) Contractor shall breach any term of this Agreement and such breach continues for ten (10) days after Contractor receives written notice from the State, or (c) Contractor becomes the subject of bankruptcy, reorganization, liquidation or receivership proceedings, whether voluntary or involuntary.

ARTICLE 10 TERMINATION

10.1 Notwithstanding any other provision of this Agreement to the contrary, this Agreement may be terminated, in whole or in part, as follows: (a) upon the mutual, written agreement of the parties; (b) If either party fails to comply with the terms of this Agreement, the non-defaulting party may terminate the Agreement upon the giving of thirty (30) days written notice unless the breach is cured within said thirty (30) day period; (c) Customer may terminate the Agreement in whole or in part without the assessment of any penalties upon thirty (30) days written notice to Contractor if Contractor becomes the subject of bankruptcy, reorganization, liquidation or receivership proceedings, whether voluntary or involuntary, or (d) Customer may terminate the Agreement for any reason without the assessment of any penalties after giving ninety (90) days written notice specifying the effective date thereof to Contractor. The provisions of this Article do not limit either party's right to pursue any other remedy available at law or in equity.

10.2 In the event Customer terminates this Agreement, Contractor shall receive just and equitable compensation for satisfactory work completed by Contractor and accepted by Customer prior to the termination. Such compensation shall be based upon the amounts set forth in the Article herein on "Consideration and Method of Payment", but in no case shall said compensation exceed the total fixed price of this Agreement and shall reassign the underlying ground lease to the State.

10.3 Notwithstanding the above, Contractor shall not be relieved of liability to Customer for damages sustained by Customer by virtue of any breach of this Agreement by Contractor, and Customer may withhold any payments to Contractor for the purpose of set off until such time as the exact amount of damages due Customer from Contractor are determined.

ARTICLE 11 GOVERNING LAW

This Agreement shall be construed and governed in accordance with the laws of the State of Mississippi and venue for the resolution of any dispute shall be Jackson, Hinds County, Mississippi. Contractor expressly agrees that under no circumstances shall Customer be obligated to pay an attorney's fee, prejudgment interest or the cost of legal action to Contractor. Further, nothing in this Agreement shall affect any statutory rights Customer may have that cannot be waived or limited by contract.

ARTICLE 12 WAIVER

Failure of either party hereto to insist upon strict compliance with any of the terms, covenants and conditions hereof shall not be deemed a waiver or relinquishment of any similar right or power hereunder at any subsequent time or of any other provision hereof, nor shall it be construed to be a modification of the terms of this Agreement. A waiver by the State, to be

effective, must be in writing, must set out the specifics of what is being waived, and must be signed by an authorized representative of the State.

ARTICLE 13 SEVERABILITY

If any term or provision of this Agreement is prohibited by the laws of the State of Mississippi or declared invalid or void by a court of competent jurisdiction, the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law provided that the State's purpose for entering into this Agreement can be fully achieved by the remaining portions of the Agreement that have not been severed.

ARTICLE 14 CAPTIONS

The captions or headings in this Agreement are for convenience only, and in no way define, limit or describe the scope or intent of any provision or Article in this Agreement.

ARTICLE 15 HOLD HARMLESS

To the fullest extent allowed by law, Contractor shall indemnify, defend, save and hold harmless, protect and exonerate Customer, ITS and the State, its Board Members, officers, employees, agents and representatives from and against any and all claims, demands, liabilities, suits, actions, damages, losses, costs and expenses of every kind and nature whatsoever, including without limitation, court costs, investigative fees and expenses, attorney fees and claims for damages arising out of or caused by Contractor and/or its partners, principals, agents, employees or subcontractors in the performance of or failure to perform this Agreement.

ARTICLE 16 THIRD PARTY ACTION NOTIFICATION

Contractor shall notify Customer in writing within five (5) business days of Contractor filing bankruptcy, reorganization, liquidation or receivership proceedings or within five (5) business days of its receipt of notification of any action or suit being filed or any claim being made against Contractor or Customer by any entity that may result in litigation related in any way to this Agreement and/or which may affect the Contractor's performance under this Agreement. Failure of the Contractor to provide such written notice to Customer shall be considered a material breach of this Agreement and the Customer may, at its sole discretion, pursue its rights as set forth in the Termination Article herein and any other rights and remedies it may have at law or in equity.

ARTICLE 17 AUTHORITY TO CONTRACT

Contractor warrants that it is a validly organized business with valid authority to enter into this Agreement; that entry into and performance under this Agreement is not restricted or prohibited by any loan, security, financing, contractual or other agreement of any kind, and notwithstanding any other provision of this Agreement to the contrary, that there are no existing legal proceedings, or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this Agreement.

ARTICLE 18 NOTICE

Any notice required or permitted to be given under this Agreement shall be in writing and

personally delivered or sent by facsimile provided that the original of such notice is sent by certified United States mail, postage prepaid, return receipt requested, or overnight courier with signed receipt, to the party to whom the notice should be given at their business address listed herein. ITS' address for notice is: Mr. David L. Litchliter, Executive Director, Mississippi Department of Information Technology Services, 301 North Lamar Street, Suite 508, Jackson, Mississippi 39201. Customer's address for notice is: Mr. Bill Roach, MSWIN Executive Officer, Mississippi Wireless Communication Commission, 412 East Woodrow Wilson, Mail Code 6601, Jackson, Mississippi 39216. The Contractor's address for notice is: <name, title>, <vendor>, <mailing address>. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.

ARTICLE 19 RECORD RETENTION AND ACCESS TO RECORDS

Contractor shall establish and maintain financial records, supporting documents, statistical records and such other records as may be necessary to reflect its performance of the provisions of this Agreement. The Customer, ITS, any state or federal agency authorized to audit Customer, and/or any of their duly authorized representatives, shall have unimpeded, prompt access to any of the Contractor's books, documents, papers and/or records that are pertinent to this Agreement to make audits, examinations, excerpts and transcriptions at the Contractor's office where such records are kept during Contractor's normal business hours. All records relating to this Agreement shall be retained by the Contractor for three (3) years from the date of receipt of final payment under this Agreement. However, if any litigation or other legal action, by or for the state or federal government has begun that is not completed at the end of the three (3) year period, or if an audit finding, litigation or other legal action has not been resolved at the end of the three (3) year period, the records shall be retained until resolution.

ARTICLE 20 INSURANCE

20.1 Contractor shall maintain, at its own expense, the following insurance coverages in the amounts specified, insuring the Contractor, its employees, agents, designees, subcontractors, and any indemnities as required herein:

A. Professional liability insurance in an amount not less than five million dollars (\$5,000,000.00) (per claim), for the wrongful or negligent acts of engineers and architects, employed by Contractor to complete the Project. In addition, Contractor will require geologists and other providers of professional services employed to complete the Project to carry Professional Liability Insurance in an amount not less than five million dollars (\$5,000,000.00) (per claim); and

B. Commercial general liability insurance in an amount not less than twenty-five million dollars (\$25,000,000.00) (per occurrence), including coverage for blanket contractual liability, broad form property damage, personal injury and bodily injury (including illness, disease and death), and products/completed operations; such amount may be provided by a combination of primary Commercial General Liability Insurance and Excess Liability Insurance policies; and

- C. Business automobile liability insurance, including hired and non-owned vehicles, in an amount not less than one million dollars (\$1,000,000.00) (per occurrence), covering bodily injury and property damage; and
- D. Employee fidelity bond in an amount not less than three hundred thousand dollars (\$300,000.00) (per occurrence), and
- E. Workers' compensation insurance in the amounts required pursuant to the laws of the State of Mississippi.

20.2 DURATION: All insurance policies required herein shall be issued by an insurance company or companies licensed to do business in the State of Mississippi and acceptable to the State, and shall be written on an occurrence basis or the Contractor/subcontractor shall provide coverage to the State for a period of not less than eight (8) years after the final work performed under this Agreement. The Contractor/subcontractor shall list ITS, the Customer, and the State of Mississippi as additional insured on all insurance policies and coverages, excepting only the professional liability coverage and workers' compensation coverage, and all such policies shall include the following endorsement: "It is hereby agreed and understood that ITS, the Customer, and the State of Mississippi are listed as additional insured, and that the coverage afforded to ITS, the Customer, and the State of Mississippi under this policy shall be primary insurance. If ITS, the Customer, and the State of Mississippi have other insurance which is applicable to the loss, such other insurance shall be on an excess or contingent basis. The amount of the Insurer's liability under this policy shall not be reduced by the existence of such other insurance". Contractor/subcontractor's workers' compensation policy(ies) shall provide for waiver of the insurer(s) right of subrogation against ITS, the Customer, and the State of Mississippi.

20.3 NO CANCELLATION: No policy of insurance may be canceled, modified or reduced during the course of this Agreement by Contractor. Should any insurance coverage required under this article be canceled, modified, or reduced by an insurer Contractor shall obtain a new policy(ies) that satisfies the requirements of Article 20.1 before the effective date of the change in coverage.

20.4 DEDUCTIBLES: Contractor/subcontractor shall be responsible for all deductibles and for any inadequacy or absence of coverage, and the Contractor/subcontractor shall have no claim or other recourse against the State for any costs or loss attributable to such deductibles or to coverage limitations, exclusions, or unavailability, all of which shall be borne solely by the Contractor/subcontractor.

20.5 CERTIFICATE OF INSURANCE: At the time of the execution of this Agreement, the Contractor/subcontractor shall deliver to the Customer a Certificate or Certificates of Insurance, certifying the types and the amounts of coverage, certifying that said insurance is in force before the Contractor/subcontractor starts work, certifying that said insurance applies to the Project and to all activities and liability of the Contractor/subcontractor pursuant to this Agreement, and certifying that ITS, the Customer, and the State of Mississippi are listed as additional insured on the Contractor/subcontractor's policies of insurance by endorsement as

required herein. The Contractor/subcontractor shall simultaneously deliver to ITS one duplicate original of the declarations page for each insurance policy.

20.6 NON-DELEGABLE: The insurance and indemnity obligations of this Agreement are non-delegable. The Contractor shall not subcontract any part of this Agreement without retaining absolute responsibility for requiring the same insurance coverage from its subcontractors.

20.7 PAYMENT OF PREMIUMS: The Contractor/subcontractor shall be responsible for payment of all premiums for insurance required by this Agreement, but the Contractor's/subcontractor's obligations shall not be limited to the purchase of insurance. The Contractor shall indemnify and hold harmless the State, as described in Article 15 of this Agreement, for all damages for which insurance should have been provided pursuant to this Agreement, irrespective of whether said insurance was actually obtained. The Contractor's indemnity obligations under this Agreement shall not be restricted to amounts available under insurance, whether actually obtained or which should have been obtained, but shall extend to the fullest extent, as set forth in Article 15 of this Agreement.

20.8 The Contractor's and any subcontractor's failure to maintain complete insurance shall be a material breach of this Agreement authorizing the State, at the State's sole election, either to terminate this Agreement for cause or to provide full insurance coverage at the Contractor's sole expense; however, in neither case shall the Contractor's liability be lessened.

20.9 In the event the Contractor or any subcontractors fail to obtain and maintain insurance required by this Agreement, the State shall be entitled, at its sole discretion and without waiving any rights hereunder, to purchase said insurance and deduct the premium costs from any amounts owed the Contractor. However, the State shall have no obligation to purchase said insurance and failure to do so shall not constitute a waiver of the Contractor's and/or subcontractor's obligations with respect to insurance as set forth in this Agreement.

20.10 The State shall not be required to purchase any insurance under this Agreement.

ARTICLE 21 DISPUTES

Any dispute concerning a question of fact under this Agreement which is not disposed of by agreement of the Contractor and Customer, shall be decided by the Executive Director of ITS or his/her designee. This decision shall be reduced to writing and a copy thereof mailed or furnished to the parties. Disagreement with such decision by either party shall not constitute a breach under the terms of this Agreement. Such disagreeing party shall be entitled to seek such other rights and remedies it may have at law or in equity.

ARTICLE 22 COMPLIANCE WITH LAWS

Contractor shall comply with, and all activities under this Agreement shall be subject to, all Customer policies and procedures, and all applicable federal, state, and local laws, regulations, policies and procedures as now existing and as may be amended or modified.

Specifically, but not limited to, Contractor shall not discriminate against any employee nor shall any party be subject to discrimination in the performance of this Agreement because of race, creed, color, sex, age, national origin or disability.

ARTICLE 23 CONFLICT OF INTEREST

Contractor shall notify the Customer of any potential conflict of interest resulting from the representation of or service to other clients. If such conflict cannot be resolved to the Customer's satisfaction, the Customer reserves the right to terminate this Agreement.

ARTICLE 24 SOVEREIGN IMMUNITY

By entering into this Agreement with Contractor, the State of Mississippi does in no way waive its sovereign immunities or defenses as provided by law.

ARTICLE 25 CONFIDENTIAL INFORMATION

Contractor shall treat all Customer data and information to which it has access by its performance under this Agreement as confidential and shall not disclose such data or information to a third party without specific written consent of Customer. In the event that Contractor receives notice that a third party requests divulgence of confidential or otherwise protected information and/or has served upon it a subpoena or other validly issued administrative or judicial process ordering divulgence of such information, Contractor shall promptly inform Customer and thereafter respond in conformity with such subpoena to the extent mandated by state and/or federal laws, rules and regulations. This Article shall survive the termination or completion of this Agreement and shall continue in full force and effect and shall be binding upon the Contractor and its agents, employees, successors, assigns, subcontractors or any party or entity claiming an interest in this Agreement on behalf of, or under the rights of the Contractor following any termination or completion of this Agreement.

ARTICLE 26 EFFECT OF SIGNATURE

Each person signing this Agreement represents that he or she has read the Agreement in its entirety, understands its terms, is duly authorized to execute this Agreement on behalf of the parties and agrees to be bound by the terms contained herein. Accordingly, this Agreement shall not be construed or interpreted in favor of or against the State or the Contractor on the basis of draftsmanship or preparation hereof.

ARTICLE 27 ENTIRE AGREEMENT

27.1 This contract constitutes the entire agreement of the parties with respect to the subject matter contained herein and supersedes and replaces any and all prior negotiations, understandings and agreements, written or oral, between the parties relating thereto. The RFP No. 3584 and Contractor's Proposal in response to RFP No. 3584 are hereby incorporated into and made a part of this Agreement. The Exception Summary is attached hereto as "Exhibit B" and incorporated herein by reference.

27.2 The contract made by and between the parties hereto shall consist of, and precedence is hereby established by the order of the following:

- A.** This Agreement signed by the parties hereto;
- B.** Any exhibits attached to this Agreement;
- C.** RFP No. 3584 and written addenda, and
- D.** Contractor's Proposal, as accepted by Customer, in response to RFP No. 3584.

27.3 The intent of the above listed documents is to include all items necessary for the proper execution and completion of the services by the Contractor. The documents are complementary, and what is required by one shall be binding as if required by all. A higher order document shall supersede a lower order document to the extent necessary to resolve any conflict or inconsistency arising under the various provisions thereof; provided, however, that in the event an issue is addressed in one of the above mentioned documents but is not addressed in another of such documents, no conflict or inconsistency shall be deemed to occur by reason thereof. The documents listed above are shown in descending order of priority, that is, the highest document begins with the first listed document ("A. This Agreement") and the lowest document is listed last ("D. Contractor's Proposal").

ARTICLE 28 STATE PROPERTY

Contractor shall be responsible for the proper custody of any Customer-owned property furnished for Contractor's use in connection with work performed pursuant to this Agreement. Contractor shall reimburse the Customer for any loss or damage, normal wear and tear excepted.

ARTICLE 29 SURVIVAL

Articles 11, 15, 19, 24, 25, and all other articles which, by their express terms so survive or which should so reasonably survive, shall survive any termination or expiration of this Agreement.

ARTICLE 30 DEBARMENT AND SUSPENSION CERTIFICATION

Contractor certifies that neither it nor its principals: (a) are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency; (b) have, within a three (3) year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; (c) are presently indicted of or otherwise criminally or civilly charged by a governmental entity with the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property, and (d) have, within a three (3) year period preceding this Agreement, had one or more public transaction (federal, state or local) terminated for cause or default.

ARTICLE 31 STATUTORY AUTHORITY

By virtue of Section 25-53-21 of the Mississippi Code Annotated, as amended, the executive director of ITS is the purchasing and contracting agent for the State of Mississippi in the negotiation and execution of all contracts for the acquisition of information technology equipment, software and services. The parties understand and agree that ITS as contracting agent is not responsible or liable for the performance or non-performance of any of Customer's or Contractor's contractual obligations, financial or otherwise, contained within this Agreement.

ARTICLE 32 PAYMENT BOND

The Contractor must provide a payment bond in the amount of \$25,000,000.00 to secure the prompt payment of all persons supplying labor or materials used in the performance of work under this Agreement. The payment bond must be submitted to and approved by the State as defined below prior to the execution of the Agreement. The bond shall be accompanied by a duly authenticated or certified document evidencing that the person executing the bond is a licensed Mississippi agent for the bonding company. This certified document shall identify the name and address of the person or entity issuing the payment bond, and shall identify a contact person to be notified in the event the State is required to take action against the bond. The term of the payment bond shall be concurrent with the term of this Agreement and shall not be released to Contractor until all services required herein have been completed and accepted by Customer, and all persons supplying labor or materials in the performance of work under this Agreement have been paid in full by the Contractor. The Contractor will provide a certificate of bond release acknowledging that all persons supplying labor or materials have been paid in full and are clear of liens. ITS will have fifteen (15) calendar days from receipt of notice to release the bond. The payment bond shall be procured at Contractor's expense and be payable to Customer. Prior to approval of the payment bond, the State reserves the right to review the bond and require Contractor to substitute an acceptable bond in such form as the State may reasonably require. ITS shall notify Contractor within fifteen (15) days of receipt of a proposed bond regarding any required changes or substitutions. The premiums on such bond shall be paid by Contractor. The bonds must specifically refer to this Agreement and shall bind the surety to all the terms and conditions of this Agreement. If the Agreement is terminated due to Contractor's failure to comply with the terms thereof, Customer may claim against the payment bond.

ARTICLE 33 PERFORMANCE BOND

As a condition precedent to the formation of this Agreement, the Contractor must provide a performance bond as herein described. To secure the Contractor's performance, the Contractor shall procure, submit to the State with this executed Agreement, and maintain in effect at all times during the course of this Agreement a performance bond in the total amount of this Agreement. The bond shall be accompanied by a duly authenticated or certified document evidencing that the person executing the bond is a licensed Mississippi agent for the bonding company. This certified document shall identify the name and address of the person or entity holding the performance bond and shall identify a contact person to be notified in the event the State is required to take action against the bond. The term of the

performance bond shall be concurrent with the term of this Agreement and shall not be released to Contractor until all services required herein have been completed and accepted by Customer. The performance bond shall be procured at Contractor's expense and be payable to the Customer. The cost of the bond may be invoiced to the Customer after project initiation only if itemized in the Contractor's cost proposal and in the attached Exhibit A. Prior to approval of the performance bond, the State reserves the right to review the bond and require Contractor to substitute an acceptable bond in such form as the State may reasonably require. The premiums on such bond shall be paid by Contractor. The bond must specifically refer to this Agreement and shall bind the surety to all of the terms and conditions of this Agreement. If the Agreement is terminated due to Contractor's failure to comply with the terms thereof, Customer may claim against the performance bond.

For the faithful performance of the terms of this Agreement, the parties hereto have caused this Agreement to be executed by their undersigned authorized representatives.

**State of Mississippi, Department
of Information Technology Services,
on behalf of the Mississippi
Wireless Communications Commission**

<vendor name>

By: _____
Authorized Signature
Printed Name: David L. Litchliter

Title: Executive Director

Date: _____

By: _____
Authorized Signature
Printed Name: _____

Title: _____

Date: _____

Mississippi Wireless Communication Commission

By: _____
Authorized Signature
Printed Name: Christopher Epps

Title: Chairman

Date: _____

BUILD-TO-SUIT TOWER CONSTRUCTION AGREEMENT EXHIBIT A

Cost Summary

Monthly Lease Costs:

Tower Purchase Prices:

Optional State Compound Development:

Other Optional Services:

BUILD-TO-SUIT TOWER CONSTRUCTION AGREEMENT EXHIBIT B
Exception Summary

ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENTS

THIS ASSIGNMENT AND ASSUMPTION OF TOWER SITE AGREEMENT ("Agreement") is made as of the ____ day of _____, 200__ ("Effective Date"), by and between _____, whose address is _____ ("Assignor") and _____, whose address is _____ ("Assignee"). All references hereafter to "Assignee" and "Assignor" shall include their respective heirs, successors, personal representatives, lessees, licensees and assigns (collectively, "Parties").

WITNESSETH:

WHEREAS, Assignor is the owner of that certain property ("Property") located in the City of _____, and County of _____, in the State of _____, having a street address of _____, and which Property is more particularly described on Exhibit A attached hereto, and this document is made with respect to said real property; and

WHEREAS, Assignor is the Lessor with respect to those certain lease agreement(s) described on Exhibit B attached hereto (individually or collectively, the "Assigned Leases"); and

WHEREAS, it is the intention of Assignor to assign any and all right, title and interest in the Assigned Leases to Assignee; and

WHEREAS, it is the intention of the parties that Assignee assumes all obligations of Assignor, and to comply with and perform all other covenants, conditions, limitations and agreements on the part of Assignor to be complied with and performed under the Assigned Leases.

NOW, THEREFORE, in consideration of the sum of Ten and NO/100 Dollars (\$10.00) and other valuable consideration paid by Assignee to Assignor, the receipt and sufficiency of which is hereby acknowledged by Assignor, and in consideration of the covenants herein, the parties do hereby agree as follows:

1. Assignor does hereby assign unto Assignee any and all right, title or interest Assignor has under the Assigned Leases, to have and to hold unto Assignee, its successors and assigns;
2. Assignee, as of the Effective Date, hereby assumes the obligations of Assignor under the Assigned Leases accruing on or after the Effective Date;
3. Assignor shall indemnify and hold Assignee harmless with respect to any obligations under the Assigned Leases required to be performed by Assignor prior to the Effective Date;
4. Assignee shall indemnify and hold Assignor harmless with respect to any obligations under the Assigned Leases required to be performed by Assignee after the Effective Date;
5. This Assignment and Assumption Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

WITNESSES:

"ASSIGNOR":

Print Name: _____

By: _____
Print Name: _____
Title: _____

Print Name: _____

Assignor Acknowledgment (Limited Liability Company)

STATE OF _____

COUNTY OF _____

Personally appeared before me, the undersigned authority in and for the said county and state, on this ____ day of _____, 200__, within my jurisdiction, the within named _____, who acknowledged that (he)(she) is _____ of _____, a _____ limited liability company, and that for and on behalf of the said limited liability company and as its act and deed (he)(she) executed the above and foregoing instrument, after first having been duly authorized by said limited liability company so to do.

My commission expires: _____

NOTARY PUBLIC

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

"ASSIGNEE":

WITNESSES:

Print Name: _____

By: _____

Name: _____
Title: _____

Print Name: _____

Assignor Acknowledgment

STATE OF MISSISSIPPI

COUNTY OF _____

Personally appeared before me, the undersigned authority in and for the said county and state, on this ____ day of _____, 200__, within my jurisdiction, the within named _____, who acknowledged that (he)(she) is _____ of _____, and that for and on behalf of the said State of Mississippi and as its act and deed (he)(she) executed the above and foregoing instrument, after first having been duly authorized by said State so to do.

My commission expires:

NOTARY PUBLIC

ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENTS EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENTS EXHIBIT B

EXISTING AGREEMENTS

Assignor assigns and transfer to Assignee, as of the effective date herein, all of its right, title and interest in, to and under any existing lease agreements, and any assignments thereof, affecting any portion of the Property leased by Assignor under any Existing Agreements, including, without limitation, the following leases, together with any and all amendments, modifications and/or assignments to Assignors of any of the following:

TOWER SITE AGREEMENT

THIS TOWER SITE AGREEMENT (hereinafter the "Agreement") made this ____ day of _____, 200__, between _____ whether one or more hereinafter designated "***Landlord***", and _____, hereinafter designated "***Tenant***".

OPTION AGREEMENT

Landlord is the owner of certain real property located in _____ County, State of Mississippi, and Tenant desires to obtain an option to lease a portion of said real property, containing approximately 10,000 square feet (100' x 100') together with three (3) fifty foot (50') wide corridors sufficient for guy support cables, along with a thirty foot (30') wide right of way for access and utilities thereto (said parcel and right of ways are hereinafter called "***Property***" or "***Site***"). The Property is specifically described in and substantially shown on Exhibit A attached hereto and made a part hereof.

NOW THEREFORE, in consideration of the sum of _____ Dollars (\$_____) to be paid by Tenant to the Landlord, which Tenant will provide upon its execution of this Agreement, the Landlord hereby grants, bargains, sells and conveys to Tenant and its successors and assigns the exclusive and irrevocable right and option to lease said Property for the term and in accordance with the covenants and conditions set forth herein.

The option may be exercised at any time on or prior to twelve (12) months from the date of this Agreement.

At Tenant's election, and upon Tenant's prior written notification to Landlord, the time during which the option may be exercised may be further extended for one additional successive twelve (12) months period expiring on the anniversary date of this Agreement with an additional payment of _____ Dollars (\$_____) by Tenant to Landlord for the option period so extended. The time during which the option may be exercised may be further extended by mutual agreement in writing. If during said option period, or during the term of the lease, if the option is exercised, the Landlord decides to subdivide, sell or change the status of the Property or Landlord's property contiguous thereto, Landlord shall immediately notify Tenant in writing so that Tenant can take steps necessary to protect Tenant's interest in the Property.

Should Tenant fail to exercise this option or any extension thereof within the time herein limited, all rights and privileges granted hereunder shall be deemed completely surrendered, this option terminated, and Landlord shall retain all money paid for the option, and no additional money shall be payable by either party to the other.

The Landlord shall permit Tenant during the option period, free ingress and egress to the Property to conduct such tests, inspections, surveys, structural strength analysis, subsurface boring tests and other activities of similar nature, as Tenant may deem necessary, at the sole cost

of Tenant.

Notice of the exercise of the option shall be given by Tenant to the Landlord in writing by certified mail, return receipt requested. Notice shall be deemed effective on the date it is posted. On the date of such notice the following Agreement shall take effect:

LEASE AGREEMENT

1. **Premises and Use.** Landlord hereby leases to Tenant that certain parcel of real property, containing approximately 10,000 square feet (100' x 100') together with three (3) fifty foot (50') wide corridor sufficient for guy support cables, situated in _____ County, State of Mississippi, (Parcel ID Number _____) together with the nonexclusive right to ingress and egress, seven (7) days a week, twenty-four (24) hours a day, on foot or motor vehicle, including trucks, and for the installation and maintenance of utility wires, cables, conduits and pipes over, under or along a thirty foot (30') wide right of way extending from the nearest public right of way to the leased parcel, said leased parcel and right of way for access and utilities being substantially as described in Exhibit A attached hereto and made a part hereof. Said leased parcel and right of way for access and utilities shall be hereinafter referred to as "*Property*" or the "*Site*". Landlord shall cooperate with Tenant in Tenant's effort to obtain utility services along said right of way by signing such documents or easements as may be required by said utility companies. In the event any public utility is unable to use the aforementioned right of way, the Landlord hereby agrees to grant an additional right of way either to the Tenant or to the public utility at no cost to the Tenant or utility provider. . Landlord hereby grants to Tenant the right to survey the Property, and said survey shall become Exhibit B to this Agreement, and shall describe the Property.

2. **Rent.** This Agreement shall be for an initial term of five (5) years (the Initial Term") beginning on the date the option is exercised by Tenant at an annual rent of _____ Dollars (\$_____) to be paid in equal monthly installments of _____ Dollars (\$_____) on the first day of the month, in advance, to Landlord, or to such other person, firm or place as the Landlord may, from time to time, designate in writing at least thirty (30) days in advance of any rental payment date.

3. **Renewal Periods.** Tenant shall have the option to extend this lease for five (5) additional five (5) year terms (the Renewal Term"). The lease shall be automatically renewed and extended for each renewal term unless at least sixty (60) days prior to the end of the then current term Tenant gives Landlord written notice of its intention not to renew. At each Renewal Term, Landlord's Rent shall increase fifteen percent (15%) over the rent amount of the previous Term.

4. **Use of the Property.** Tenant shall use the Property for the purpose of building, maintaining and operating a wireless communications tower and facility and uses incidental thereto, and utilized by Tenant, for the purpose of installing, removing, replacing, modifying, maintaining and operating, at its expense, a communication tower structure of sufficient height now or in the future to meet Tenant's telecommunication needs and all necessary connecting and supporting appurtenances, along with antennas, dishes, cables, and related structures and

improvements, as is necessary now or in the future to shelter telecommunications equipment (the "Site"). A security fence consisting of construction selected by Tenant may at the option of Tenant be placed (a) around the perimeter of the Property and at the points at which any supporting guy cables connect to the earth (not including the access and utilities easement) and (b) on other areas of the Property determined by Tenant. All improvements shall be at Tenant's expense. Tenant will maintain the Property in a reasonable condition. It is understood and agreed that Tenant's ability to use the Property is contingent upon its obtaining after the execution date of this Agreement, all of the certificates, permits and other approvals that may be required by any federal, state or local authorities. Landlord shall cooperate with Tenant in its effort to obtain such approvals and shall take no action which would adversely affect the status of the Property with respect to the proposed use thereof by Tenant. Landlord agrees to sign such papers as required to file applications with the appropriate zoning authority and/or commission for the proper zoning of the Property as required for the use intended by the Tenant. Tenant will perform all other acts and bear expenses associated with the rezoning procedure. Landlord agrees not to register any written or verbal opposition to the rezoning procedures.

5. Title and Quiet Possession. Landlord covenants that Landlord is seized of good and sufficient title and interest to the Property and has full authority to enter into and execute this Agreement. Landlord further covenants (a) that there are no liens, judgments or impediments of title on the Property, and (b) that Tenant is entitled to access to the Site at all times and to the quiet possession of the Property throughout the Initial Term and each Renewal Term so long as Tenant is not in default beyond the expiration of any cure period; (c) that Landlord shall not have unsupervised access to the Site, and (d) not to interfere with Tenant's use of the Property

6. Assignment. Tenant shall have the right to assign this Agreement without prior consent of Landlord.

7. Notices. All notices must be in writing and are effective only when deposited in the U.S. Mail, certified and postage prepaid, or when sent via overnight delivery. Notices to Tenant are to be sent to: Tenant: _____, Attn.: Property Department. Notices to Landlord: _____.

8. Improvements. Tenant, and its subtenants, may, at its expense, make such improvements on the Site as they deem necessary from time to time for the operation of the wireless communication facility. Landlord agrees to cooperate with Tenant with respect to obtaining any required zoning approvals for the Site and such improvements. Upon termination or expiration of this Agreement, Tenant shall promptly remove its equipment and improvements and restore the Site to substantially the condition existing on the Commencement Date, except for ordinary wear and tear and casualty loss. Tenant and their agents may represent Landlord in all efforts to obtain permits associated with this site where such permits must be filed for and obtained in Landlord's name.

9. Compliance with Laws. Landlord represents that Landlord's property (including the Site), and all improvements located thereon, are substantially in compliance with building, life/safety, disability and other laws, codes and regulations of applicable governmental authorities. Tenant

will substantially comply with all applicable laws relating to its possession and use of the Site.

10 Utilities. Tenant and/or its subtenants will pay for all utilities used by it at the Site. Landlord will cooperate with Tenant in Tenant's efforts to obtain utilities from any location provided by Landlord or the servicing utility, including signing any easement or other instrument reasonably required by the utility company(s). Landlord herein grants Tenant an easement for ingress, egress and access to the Property, as may be required, for the construction, installation and maintenance of electric and telephone service to the Property. Upon termination or expiration of this Agreement, Tenant shall promptly remove any utilities installed by it or on its behalf during the Term of this Agreement and restore the Site to substantially the condition existing on the Commencement Date, except for ordinary wear and tear and casualty loss.

11. Termination. Tenant may terminate this Agreement at its option by giving Landlord not less than sixty (60) days written Notice without further liability, if Tenant does not obtain all permits or other approvals (collectively, "approval") required from any governmental authority or any easements required from any third party to operate wireless communication facility, or if any such approval is cancelled, expires or is withdrawn or terminated, or if Landlord fails to have proper ownership of the Site or authority to enter into this Agreement, or if it is damaged, destroyed or altered to an extent that prohibits or materially interferes with Tenant's use of the Site or Tenant's equipment or attachments thereto, or if the Site now contains a Hazardous Material or is found to have contained a Hazardous Material prior to the Commencement of the Agreement, or if Tenant determines, in its sole discretion, that the Site is or have become technologically unsuitable or are not feasible for Tenant's Structures. Upon termination, all prepaid rent will be retained by Landlord unless such termination is due to Landlord's failure of proper ownership or authority, or such termination is a result of Landlord's default.

12. Default. If either party is in default under this Agreement for a period of (a) 15 days following receipt of notice from the non-defaulting party with respect to a default which may be cured solely by the payment of money, or (b) 30 days following receipt of notice from the non-defaulting party with respect to a default which may not be cured solely by the payment of money, then, in either event, the non-defaulting party may pursue any remedies available to it against the defaulting party under applicable law, including, but not limited to, the right to terminate this Agreement. If the non-monetary default may not reasonably be cured within a 30-day period, this Agreement may not be terminated if the defaulting party commences action to cure the default within such 30-day period and proceeds with due diligence to fully cure the default.

13. Indemnity. To the extent allowed by Mississippi law, Landlord and Tenant each indemnifies the other against and holds the other harmless from any and all costs (including reasonable attorneys' fees) and claims of liability or loss which arise out of the ownership, use and/or occupancy of the Site by the indemnifying party. This indemnity does not apply to any claims arising from the sole negligence or intentional misconduct of the indemnified party. The indemnity obligations under this paragraph will survive termination of this Agreement. In the event this Agreement is assigned to a governmental entity of the State of Mississippi, Landlord acknowledges that pursuant to Section 100 of the Mississippi Constitution, the governmental

entity can not agree to indemnify Landlord.

14. **Hazardous Substances.** Landlord represents that it has no knowledge of any substance, chemical or waste (collectively "substance") on the Site that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. Tenant will not introduce or use any such substance on the Site in violation of any applicable law.

15. **Subordination, Non-Disturbance, Estoppel and Attornment.** This Agreement is subordinate to any mortgage or deed of trust, now or hereafter, of record against the Site. Landlord will execute all documents reasonably requested by Tenant to obtain Subordination, Non-disturbance, Estoppel and Attornment Agreements as required by Tenant.

16. **Taxes.** Tenant will be responsible for payment of all personal property taxes assessed directly upon and arising solely from its use of the wireless communications facility on the Site. Tenant will pay to Landlord any increase in real property taxes attributable solely to any improvements to the Site made by Tenant within sixty (60) days after receipt of satisfactory documentation indicating calculation of Tenant's share of such real estate taxes and payment of the real estate taxes by Landlord. Landlord will pay, when due, all other real estate taxes and assessments attributable to the property of Landlord of which the Site is a part. In the event that Landlord fails to pay any real property taxes or other fees and assessments when due with respect to the Property, Tenant shall have the right, but not the obligation, to pay such owed amounts and deduct them from rent amounts due under this Lease.

17. **Insurance.** Tenant will procure and maintain commercial general liability insurance, with limits of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage liability, with a certificate of insurance naming Landlord as an additional insured thereunder to be furnished to Landlord within thirty (30) days of written request. In the event this Agreement is assigned to a governmental entity of the State of Mississippi, Landlord understands that this provisions will be null and void, as the State is self insured and participates in a comprehensive plan of self insurance and/or one or more policies of liability insurance administered by the Department of Finance and Administration pursuant to Section 11-46-17 of the Mississippi Code Annotated.

18. **Easements.** Landlord shall execute any and all easements necessary for the Site to be used as set forth herein, so long as such easements do not interfere with Landlord's current use of the Site. Tenant shall prepare and pay the recording costs of any such easement.

19. **Right to Register and Record.** On execution of this Tower Site Agreement, Landlord and Tenant will execute and record in the official records of the County in which the Site is located, a Memorandum of Tower Site Agreement, attached hereto and incorporated by reference. Tenant will pay for the recording costs.

20. **Mechanic's and Landlord Liens.** Tenant and its subtenants will not cause any mechanic's or materialman's lien to be placed on the Site, and Tenant agrees to indemnify, defend and hold harmless Landlord from any such lien from a party claiming by, through or under this

Agreement. Additionally, Tenant disclaims and waives any existing or future Landlord's lien or other statutory or non-statutory lien or security interest in Tenant's and its subtenants' communications facilities, improvements, fixtures or other property.

21. Maintenance. Tenant and/or its subtenants will be responsible for repairing and maintaining the wireless communication facility and any other improvements installed by Tenant and/or its subtenants at the Site in a proper operating and reasonably safe condition, provided, however if any such repair or maintenance is required due to the acts of Landlord, its agents or employees, Landlord shall reimburse Tenant for the reasonable costs incurred by Tenant to restore the damaged areas to the condition which existed immediately prior thereto. Landlord will maintain and repair all other portions of the property of which the Site is a part in a proper operating and reasonably safe condition. Tenant further has the right to clear any trees that may risk falling into and damaging its guy wire cables, even if such trees are not within the lease area of the Site and are on Landlord's adjacent property.

22. Time of the Essence. Time is of the essence of Landlord's and Tenant's obligations under this Agreement.

23. Miscellaneous. (a) This Agreement applies to and binds the heirs successors, executors, administrators and assigns of the parties to this Agreement; (b) this Agreement is governed by the laws of the State of Mississippi and all actions brought pursuant to this Agreement shall be filed and therein; (c) this Agreement (including the Exhibits) constitutes the entire agreement between the parties and supersedes all prior written and verbal agreements, representations, promises or understandings between the parties. Any amendments to this Agreement must be in writing and executed by both parties; (d) if an provision of this Agreement is invalid or unenforceable with respect to any party, the remainder of this Agreement or the application of such provision to persons other than those as to whom it is held invalid or unenforceable, will not be affected and each provision of this Agreement will be valid and enforceable to the fullest extent permitted by law; and (e) the prevailing party in any action or proceeding in court or mutually agreed upon arbitration proceeding to enforce the terms of this Agreement is entitled to receive its reasonable attorneys' fees and other reasonable enforcement costs and expenses from the non-prevailing party.

The following Exhibits are attached to and made a part of this Agreement: Exhibits A and B.

The remainder of this page intentionally left blank.

Signature Page To Follow

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their respective seals.

LANDLORD

By: _____

Date: _____

STATE OF MISSISSIPPI)
 :
_____ COUNTY)

Personally appeared before me, the undersigned authority in and for the said county and state, on this ____ day of _____, 2008, within my jurisdiction, the within named _____ who acknowledged that (he)(she)(they) executed the above and foregoing instrument.

GIVEN under my hand this the ____ day of _____, _____.

(NOTARIAL SEAL)

Notary Public

My Commission Expires: _____

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their respective seals.

TENANT

By: _____

Name: _____

Title: _____

Date: _____

STATE OF MISSISSIPPI)
 :
_____ COUNTY)

Personally appeared before me, the undersigned authority in and for the said county and state, on this ____ day of _____, 2008, within my jurisdiction, the within named _____ who acknowledged that (he)(she)(they) executed the above and foregoing instrument.

GIVEN under my hand this the _____ day of _____, _____.

(NOTARIAL SEAL)

Notary Public

My Commission Expires: _____

TOWER ATTACHMENT LEASE AGREEMENT

THIS TOWER ATTACHMENT LEASE AGREEMENT ("Lease") is executed this _____ day of _____, 2009, by and between **INSERT VENDOR NAME** ("Lessor"), and Mississippi Department of Information Technology Services ("ITS"), as contracting agent for Mississippi Wireless Communication Commission, a political subdivision of the State of Mississippi ("Lessee").

WHEREAS, Lessor is the owner or Lessor of a parcel of land upon which Lessee intends to mount certain of Lessee's antennae, other equipment and related devices, and certain portions of a covered and enclosed structure which is suitable for Lessee's equipment, Lessor desires to lease to Lessee certain tower space upon a tower ("Tower"), or, alternatively, ground space for the installation of a structure by Lessee to be used exclusively to house Lessee's equipment; and

WHEREAS, Lessee desires to lease from Lessor certain space on Lessor's Tower and inside Lessor's ground space for the construction by Lessee of a structure to be used exclusively to house Lessee's equipment.

NOW THEREFORE, for and in consideration of the terms and mutual promises herein contained and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee agree as follows:

1. **Property.** Lessor hereby grants Lessee the right to install, maintain, operate, and remove radio communications equipment and appurtenances on Lessor's Tower on Lessor's Property and to construct a structure to house equipment owned by Lessee on Lessor's Property, which is more particularly described in Exhibit "A" attached hereto ("Property"), together with easements for ingress, egress, and utilities during the Initial Term and any Renewal Terms, as those terms are hereinafter defined, over the real property described in Exhibit "B" attached hereto ("Easement").

2. **Use.** Lessee shall be permitted to install an equipment cabinet, shelter or building, antennae, dishes, cabling, emergency power generators and related equipment on the Property and to install or improve utilities on the Property and the Easement. A description of the equipment, its frequency, operating position on the Tower, mounting height of the antennae, and other personal property owned by Lessee which Lessee anticipates shall be located on the Property is attached hereto as Exhibit "C" ("Equipment"). In no event may Lessor require the removal or relocation of the Equipment during the Initial Term or any Renewal Term of this Lease. Any personal property owned by Lessee, whether fixed or attached to the Property or the Tower, shall remain the exclusive property of Lessee without regard to whether the personal property is described on Exhibit "C." Lessor hereby grants Lessee unfettered access to the Tower and the Property for the purpose of installing and maintaining the Equipment and appurtenances. Lessee may not increase the loading of the Equipment on the Tower without Lessor's prior written consent; however, Lessee may change or modify its Equipment as its needs require within the limits of the original load parameters. The parties agree that the Lessor

will reserve space and capacity on the tower for Lessee's future use that is equal to 100% of the Lessee initial loading parameters.

3. **Initial Term.** The Initial Term of this Lease shall be for a period of five (5) years commencing with execution of this agreement ("Commencement Date"). Lessor shall provide Lessee Notice of Construction Commencement in writing providing the date of the commencement of physical construction of the Tower.

4. **Renewal Terms.** Lessee shall have the right to extend this Lease on the same terms contained herein for five (5) additional periods of five (5) years ("Renewal Terms"). Each Renewal Term shall be on the same terms and conditions as set forth in this Lease except that Rent may increase as provided in paragraph 5(b). Sixty (60) days prior to the expiration of the Initial Term or any Renewal Term of this Lease, Lessor shall notify Lessee of the impending expiration and Lessee shall have thirty (30) days in which to notify Lessor of its intention to either renew or cancel the Lease.

5. **Consideration.**

(a) Commencing with execution of this agreement(the "Rent Commencement Date"), Tenant (Lessee) will pay the Landlord (Lessor) a monthly rental payment of **INSERT DOLLAR AMOUNT PER MONTH** ("Rent") at the address set forth below. In partial months occurring after the Rent Commencement Date, Rent will be prorated. The initial Rent payment will be forwarded by Tenant to Landlord within thirty (30) days after the Rent Commencement Date. The initial rent payment includes the initial loading plus 50% growth and microwave and antenna loading. The rent payment for future loading that exceeds 50% growth up to 100% growth over initial loading will not exceed **INSERT DOLLAR AMOUNT PER MONTH**.

(b) It is understood and agreed that the Rent is fixed and may not be increased during the Initial Term. Thereafter, the Rent shall increase by ten percent (10%) for each Renewal Term.

6. **Utilities.** Lessee may utilize existing panels and connections within or upon the Property for the connection of electrical utilities to service the Equipment but shall maintain its own power meter.

7. **Lessor's Representations and Warranties.**

(a) Lessor represents and warrants that all operations conducted by Lessor in connection with the Tower and the Property, including the tower lighting systems, comply with all applicable rules and regulations of the Federal Communications Commission ("FCC"), Federal Aviation Administration ("FAA"), and all applicable codes and regulations of the city, county, and state concerned. Lessor shall be responsible for any and all Tower fines levied by the FCC or FAA regardless of the reason for the levy or on whom levied. Lessor shall maintain its lighting systems, tower antenna,

transmission lines, Equipment, and building in a proper operating and safe condition and shall comply with all notice requirements of the Federal Aviation Administration regarding the failure, malfunction, or repairs of the tower lighting systems. The cost of painting and repairing Lessor's Tower shall be borne by Lessor unless the damage to the Tower is caused by Lessee, in which case Lessee shall repair such damage or, at its option, Lessee may reimburse Lessor for its costs and expenses incurred in such repair;

(b) Lessor represents and warrants that the Property has no known contamination by pollutants or hazardous materials. The Property has not been designated as a wetland by a delineation conducted by the United States Army Corps of Engineers or the United States Environmental Protection Agency. Furthermore, there are no buildings or other structures or improvements situated on the Property which contain or emit asbestos, asbestos containing material, polychlorinated biphenyls, also known as PCBs, or radon gas, or are subject to any claims under Federal, state, or local laws or regulations protecting the environment, nor does it contain or emit any matter or substance which has or may cause or may result in any violation of Federal, state, or local environmental laws or regulations, or which may result in any liability or obligation being imposed upon the Lessee under or pursuant to any such laws and regulations. No petroleum products or toxic or hazardous substances are or have been stored or exist in, on, or under any portion of the Property, and there has not been any spill, leak, deposit, or other environmental contamination of or from any petroleum products or toxic or hazardous substances in, on, or under any portion of the Property. There are no underground storage tanks located on any portion of the Property, and there are no endangered species or protected wildlife existing on the property which would restrict use of the Property for its intended purpose.

8. **Taxes.** Any taxes including, but not limited to, real estate and property taxes assessed on the Property shall be paid by the Lessor except that Lessee shall have responsibility for any taxes levied on Lessee's personal property located or installed on the Property, if applicable. Lessee's Equipment shall remain Lessee's personal property even though it may be attached or affixed to the Property or Tower. In the event that Lessor fails to pay when due any taxes affecting the Tower, the Property, or the Easement, Lessee shall have the right but not the obligation to pay such taxes and to deduct the full amount of the taxes paid by Lessee on Lessor's behalf from future installments of Rent.

9. **Conditions Precedent.** Lessee's obligation to perform under this Lease shall be subject to and conditioned upon:

(a) Lessee securing appropriate approvals for Lessee's intended use of the Property from the Federal Communications Commission, the Federal Aviation Administration, and any other federal, state or local regulatory authority having jurisdiction over Lessee's proposed use of the Property;

(b) Lessee shall have the right to have the Property surveyed and to have structural tower studies and other engineering analyses performed. In the event that any

defects are shown by the survey or the engineering analyses, which in the opinion of Lessee may adversely affect Lessee's use of the Property, Lessee shall have the right to require Lessor to cure such defect upon written notice to Lessor; and

(c) Lessee shall have the right to have an environmental audit of the Property performed by an environmental consulting firm of Lessee's choice. If the environmental audit reveals that the Property is contaminated with pollutants or hazardous materials, Lessee shall have no obligation to perform under this Lease.

10. **Termination.** Except as otherwise provided herein, this Lease may be terminated, without any penalty or further liability, upon written notice by either party upon a default of any covenant or term hereof by the other party, which default is not cured within sixty (60) days of receipt of written notice of default (without, however, limiting any other rights available to the parties pursuant to other provisions hereof); provided, however, that if the defaulting party commences efforts to cure the default within such period, the non-defaulting party shall no longer be entitled to declare a default.

11. **Availability of Funds.** If the State or federal funds anticipated for the continued fulfillment of this Lease are not forthcoming, or are insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds, or if there is a discontinuance or material alteration of the program under which funds were available to Lessee for the payments or performance due under this Lease, Lessee shall give Lessor prompt notice and shall have the right to immediately terminate this Lease, without damage, penalty, cost or expense to Lessee.

12. **Payment.** Lessor shall submit invoices monthly to Lessee. The Lessee agrees to make payment in accordance with Mississippi law on Timely Payments for Purchases by Public Bodies", Section 31-7-301, et seq. of the 1972 Mississippi Code Annotated, as amended, which generally provides for payment of undisputed amounts within forty-five (45) days of receipt of the invoice. Payments by state agencies using the Statewide Automated Accounting System (SAAS) shall be made and remittance information provided electronically as directed by the State. These payments shall be deposited into the bank account of the Lessor's choice. The State may, at its sole discretion, require the Lessor to submit invoices and supporting documentation electronically at any time during the term of this agreement. Lessor understands and agrees that the Lessee is exempt from the payment of taxes. All payments shall be in United States currency.

13. **Liability Insurance.** During the Initial Term and all Renewal Terms, Lessor shall maintain, at its own expense, insurance covering claims for public liability, personal injury, death, and property damage under a policy of general liability insurance, with limits of not less than (i) Five Hundred Thousand Dollars (\$500,000.00) per person, (ii) One Million Dollars (\$1,000,000.00) per occurrence, and (iii) property damage insurance of not less than Fifty Thousand Dollars (\$50,000.00). Such insurance shall insure against liabilities arising out of or in connection with Lessor and Lessee's use or occupancy of the Property subject to the standard

exceptions found in the Commercial General Liability Insurance Policy. Lessor shall also maintain at Lessor's sole cost and expense a fire and extended coverage casualty insurance policy with said coverage to include wind, storm and fire damage insuring the Tower for its full replacement value.

14. **Subrogation.**

(a) **In General.** All insurance policies required under this Lease shall, if possible, contain a waiver of subrogation provision under the terms of which the insurance carrier waives all of its rights to proceed against Lessee. If waivers of subrogation are obtained, the party procuring such insurance shall use its best efforts to obtain a certificate of insurance which notes the waiver of subrogation, a copy of the insurance which notes the waiver of subrogation, and a copy of the insurance policy endorsement which evidenced the insurance carrier's assent to the waiver of subrogation.

(b) **Mutual Release.** Lessor and Lessee each release the other and their respective representatives from any claims by them or any one claiming through or under them by way of subrogation or otherwise for damage to any person or to the Property and to the fixtures, personal property, improvements, and alterations in or on the Property that are caused by or result from risks insured against under any insurance policy carried by them and required by this Lease; provided, however, that such releases shall be effective only if and to the extent that the same do not diminish or adversely affect the coverage under such insurance policies. Lessee shall be named as an additional insured on any insurance policy procured by Lessor pursuant to this Lease.

15. **Environmental Indemnities.**

(a) Lessor, its heirs, grantees, successors, and assigns shall indemnify, defend, reimburse, and hold harmless Lessee from and against any and all environmental damages arising from the presence of pollutants or hazardous materials upon, about, or beneath the Property or migrating to or from the Property or arising in any manner whatsoever out of the violation of any environmental requirements pertaining to the Property and any activities thereon, which conditions exist or existed prior to or at the time of the execution of this Lease or which may occur at any time in the future.

(b) Notwithstanding the obligation of Lessor to indemnify Lessee pursuant to this agreement, Lessor shall, upon demand of Lessee, and at Lessor's sole cost and expense, promptly take all actions to remediate the Property which are required by any federal, state, or local governmental agency or political subdivision or which are reasonably necessary to mitigate environmental damages or to allow full economic use of the Property, which remediation is necessitated from the presence upon, about, or beneath the Property of a pollutant or hazardous material. Such actions shall include but not be limited to the investigation of the environmental condition of the Property, the preparation of any feasibility studies, reports, or remedial plans, and the performance of any cleanup, remediation, containment, operation, maintenance, monitoring, or

actions necessary to restore the Property to the condition existing prior to the introduction of pollutants or hazardous materials upon, about, or beneath the Property, notwithstanding any lesser standard of remediation allowable under applicable law or governmental policies.

16. **Interference.** Lessor shall be responsible for curing any and all interference to the operation of the Equipment caused by the operation of equipment owned by Lessor or equipment owned by a third party to this Agreement which is in privity of contract with Lessor ("Third Party"). In the event that such interference cannot be eliminated or rectified to Lessee's satisfaction within forty-eight (48) hours of the receipt of notice by Lessor from Lessee of the existence of interference ("Notice Date"), Lessor shall require the party causing the interference to disconnect utility service to its equipment until such time as the interference can be eliminated or rectified to the personal satisfaction of Lessee. If said interference cannot be eliminated or rectified to Lessee's personal satisfaction within thirty (30) days of the Notice Date, Lessor shall, at the request of Lessee, require the party causing the interference to remove its equipment immediately from the Tower and the Property, or Lessee may, at the sole discretion and option of Lessee, terminate this Lease upon notice to Lessor.

17. **Notices.** All notices or demands by or from Lessor to Lessee, or Lessee to Lessor, shall be in writing and personally delivered or sent by facsimile provided that the original of such notice is sent by certified United States mail, postage prepaid, return receipt requested, or overnight courier with signed receipt, to the party to whom the notice should be given at their business address listed below. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.

Lessor: **INSERT VENDOR NAME**
VENDOR ADDRESS

Lessee: Mississippi Wireless Communication Commission
Attn: WCC Executive Officer
412 East Woodrow Wilson, Mailstop 6601
Jackson, MS 39216

ITS: Mississippi Department of Information Technology Services
David L. Litchliter, or his successor
301 North Lamar Street, Suite 508
Jackson, Mississippi 39201

18. **Destruction of Premises.** If the Property or the Tower is destroyed or damaged so as to hinder the effective use of the Tower in Lessee's judgment, Lessee may elect to terminate this Lease as of the date of the damage or destruction by so notifying the Lessor. In such event, all rights and obligations of Lessee to Lessor shall cease as of the date of the damage or destruction, and Lessee shall be entitled to the reimbursement of any Rent prepaid by Lessee prior to such destruction.

19. **Condemnation.** If a condemning authority takes all of the Property, or a portion sufficient in Lessee's determination to render the Property unsuitable for the use which Lessee was then making of the Property, this Lease shall terminate as of the date the title vests in the condemning authority. A sale of all or part of the Property to a purchaser with the power of eminent domain in the face of the exercise of eminent domain power shall be treated as a taking by condemnation for the purposes of this paragraph.

20. **Title and Quiet Enjoyment.** Lessor warrants that (i) it has the full right, power, and authority to execute this Lease; (ii) it has good and marketable title to the Property and the Easement free and clear of any liens, encumbrances, or mortgages which would adversely affect Lessee's Permitted Use and enjoyment of the Property under this Lease; and (iii) the Property constitutes a legal lot that may be leased without the need for any subdivision or platting approval except as necessary to construct Lessor's Tower. Lessor further warrants that as long as Lessee is not in default then Lessee shall have the quiet enjoyment of the Property during the term of this Lease and that Lessor shall indemnify Lessee from and against any loss, cost, or damage, including attorneys' fees, associated with a breach of the foregoing covenant of quiet enjoyment. Lessor shall not use, nor shall Lessor permit its lessees, licensees, invitees, or agents to use any portion of any property owned or controlled by Lessor in any way which interferes with operations of Lessee. Such interference shall be deemed a material breach by Lessor, and Lessee shall have the right, in addition to any other rights that it may have in law or equity, to enjoin such interference or to terminate this Lease. Lessee agrees that this Lease will be subject and subordinate to any mortgages or deeds of trust now or hereafter placed upon the subject property, and to all present and future advances made with respect to any such mortgage or deed of trust. Upon notice of an event of default issued by the holder of such deeds of trust or mortgages, Lessee agrees to commence rental payments and attorn to the mortgagee, trustee or beneficiary under any such mortgage or deed of trust and to the purchaser pursuant to any foreclosure thereof; provided that Lessee's possession of the Property will not be disturbed so long as lessee will continue to perform its duties and obligations under this Lease. For the benefit of the holder of any of the aforesaid mortgages or deeds of trust, Lessee shall not, without the express written consent of such parties, prepay in advance any rental due hereunder to Lessor in excess of one (1) month's rent. Within fourteen (14) days of request from Lessor, Lessee shall execute a reasonable form of Subordination, Non-Disturbance and Attornment Agreement if required by Lessor's lender.

21. **Assignment.** Both Lessor and Lessee have the right to assign this Lease, the Property, and its rights herein, in whole or in part, without the other party's consent, provided however, that the rights to assign this Lease without the Lessor's consent is limited to assignments to another governmental agency. Should Lessee assign this Lease to a non-governmental entity Lessor's consent must be obtained, but such consent shall not be unreasonably withheld, conditioned or delayed. Upon notification to assignee of such assignment, assignor will be relieved of all future performance, liabilities, and obligations under this Lease. Lessor shall have the right to assign, mortgage, pledge, or grant a security interest in this Lease without the prior consent of Lessee.

22. **Successors and Assigns.** This Lease shall run with the Property described on Exhibit "A" and shall be binding upon and inure to the benefit of the parties, their respective heirs, successors, personal representatives, and assigns.

23. **Waiver of Lessor's Lien.** Lessor hereby waives any and all lien rights it may have, statutory or otherwise, in and to the Equipment, or any portion thereof, regardless of whether or not same is deemed real or personal property under applicable laws.

24. **Waiver of Incidental and Consequential Damages.** Lessor will not assert any claim whatsoever against Lessee for loss of anticipatory profits or any other indirect, special, incidental or consequential damages incurred by Lessor as a result of the construction, maintenance, operation or use of the Property or the Easement by Lessee.

25. **Miscellaneous.**

(a) The substantially prevailing party in any litigation arising hereunder shall be entitled to its reasonable attorney's fees and court costs, including appeals, if any.

(b) Each party agrees to furnish to the other, within ten (10) days after request, such truthful estoppel information as the other may reasonably request.

(c) This Lease constitutes the entire agreement and understanding of Lessor and Lessee with respect to the subject matter hereof and supersedes all offers, negotiations, and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to said Lease must be in writing and executed by Lessor and Lessee.

(d) If either Lessor or Lessee is represented by a real estate broker in this transaction, that party shall be fully responsible for any fees due such broker and shall hold the other party harmless from any claims for commission by such broker.

(e) Both parties agree to cooperate with the other in executing any documents necessary to protect the respective party's rights under this Lease or either party's use of the Property and to take any further action which may be reasonably required as to effect the intent of this Lease.

(f) This Lease shall be construed in accordance with the laws of the State of Mississippi.

(g) If any term of this Lease is found to be void or invalid, such invalidity shall not affect the remaining terms of this Lease, which shall continue in full force and effect.

(h) Lessee may file of record in the property records in the county in which the Property and Easement(s) are located a Memorandum of Lease which sets forth the

names and addresses of Lessor and Lessee, the legal description of the Property and the Easement(s), the duration of the Initial Term, and the quantity and duration of the Renewal Terms.

(i) Lessor shall cooperate with Lessee's efforts to evaluate the Tower and to comply with governmental regulations affecting Lessee's use of the Property by providing information about the Tower, the Tower's location, and prior filings made by Lessor with governmental agencies.

IN WITNESS WHEREOF, Lessor and Lessee have executed this Tower Attachment Lease Agreement as of the date and year first above written.

LESSOR:

INSERT VENDOR NAME

By: _____
Authorized Signature

Title: _____

LESSEE:

**State of Mississippi, Department of Information
Technology Services, on behalf of the Mississippi
Wireless Communication Commission**

By: _____
David Litchliter

Title: Executive Director

EXHIBIT B MISSISSIPPI HIGHWAY PATROL DISTRICT BOUNDARIES

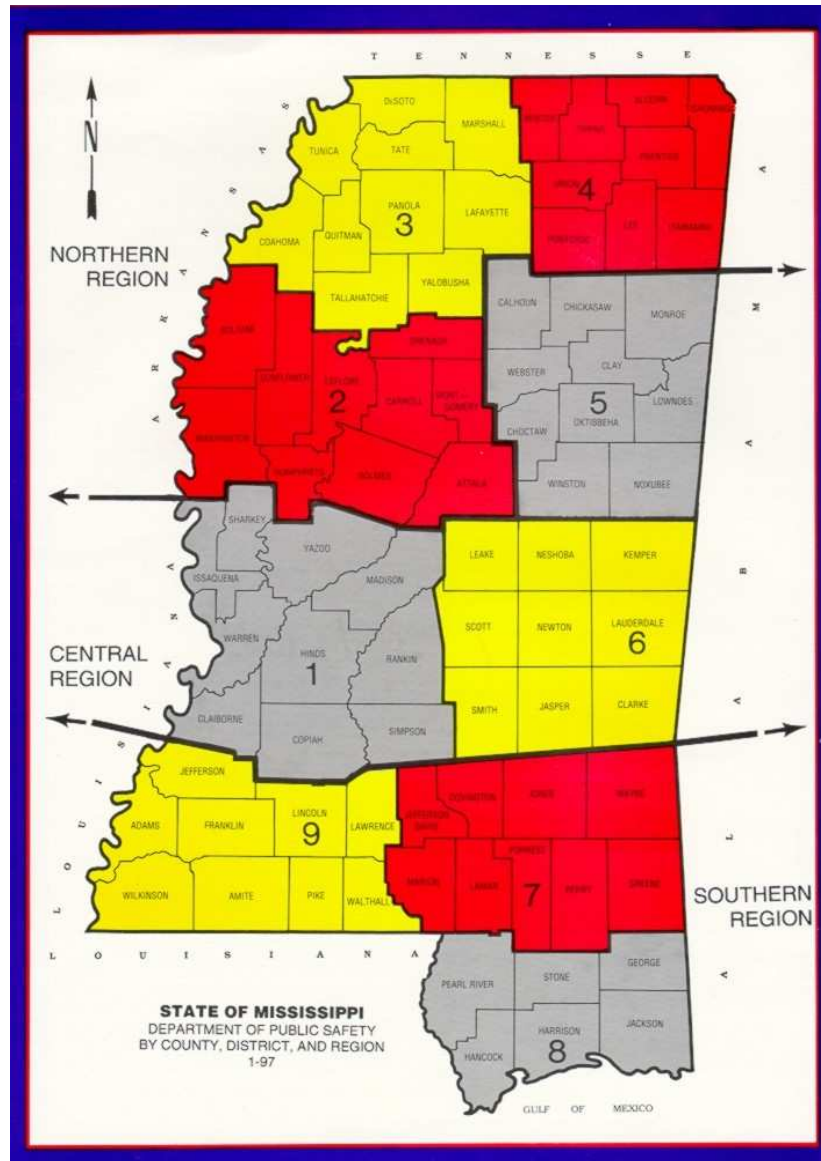


EXHIBIT C
SITE DRAWINGS

(Refer to Exhibit C.pdf file)